

**RESOLUTION NO. 2008 – 038**

**A RESOLUTION TO APPROVE THE AGREEMENT BETWEEN THE VILLAGE OF WAYNESVILLE AND THE OHIO SAUERKRAUT FESTIVAL COMMITTEE AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Ohio Sauerkraut Festival Committee sponsors on an annual basis the Ohio Sauerkraut Festival; and

**WHEREAS**, the event is held on the 2<sup>nd</sup> full weekend of October each year; and

**WHEREAS**, the Village Council of the Village of Waynesville finds that the Sauerkraut Festival provides substantial benefit to the Village of Waynesville, the Township of Wayne, the Wayne Local School System, and other charitable organizations throughout our area; and

**WHEREAS**, the Village of Waynesville recognizes the good will that is created by the Ohio Sauerkraut Festival;

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF WAYNESVILLE, MORE THAN TWO-THIRDS OF ALL ELECTED MEMBERS THERETO CONCURRING THAT:**

**Section 1.** The Village Manager of the Village of Waynesville is authorized to sign the agreement, which is attached hereto and marked as Exhibit "A".

**Section 2.** The exercise of the police powers recited in this agreement is beyond the norm of the Village of Waynesville and the Village of Waynesville determines that it is in the best interests of the Village of Waynesville and it is beneficial to the health, safety, and welfare of the Village residents, as well as those business invitees, to enter into this agreement to provide the services rendered therein.

**Section 3.** This Resolution is an emergency measure necessary for the public health, safety, and welfare and shall be effective immediately. The reason for said emergency is the need to grant to the Village Manager the authority to sign this agreement prior to the Ohio Sauerkraut Festival.

Adopted this 6<sup>th</sup> day of October, 2008.

Attest

Staci Morris, Clerk of Council

Earl J. Isaacs, Mayor

359482.1

1st rd - 09/17/2008

2nd rd - 10/06/2008

Effective  
10/06/2008  
emergency

**SAUERKRAUT FESTIVAL  
VILLAGE OF WAYNESVILLE  
POLICE AGREEMENT**

The parties to this Agreement are the Village of Waynesville and the Ohio Sauerkraut Festival Committee/Waynesville Area Chamber of Commerce. The purpose of this Agreement is to provide Waynesville Police Department special detail duty to the Ohio Sauerkraut Festival Committee/Waynesville Area Chamber of Commerce for the 2008 AND 2009 Ohio Sauerkraut Festivals.

Now, therefore, the parties, each in consideration of the mutual promises and obligations assumed herein by the other, agree as follows:

1. The Ohio Sauerkraut Festival Committee/Waynesville Area Chamber of Commerce agrees to pay to the Village of Waynesville the sum of nine-thousand and two-hundred dollars (\$9,200) for staffing, crowd control, police patrols, security, and all other items delineated herein for the 2008-2009 Ohio Sauerkraut Festival.
2. Village of Waynesville police officers and employees shall not be responsible for enforcing any rules or regulations established by the Ohio Sauerkraut Festival Committee that are in conflict with any local, state, or federal ordinances, statutes, or laws.
3. Minimum staffing shall be established at the discretion of the Village of Waynesville, as determined by its Village Manager, particularly in instances of large crowds or traffic control in consideration of public and officer safety. Minimum staffing shall be established by the Village of Waynesville at the time of scheduling. The duties and responsibilities of these police officers shall be to provide crowd control, traffic control, overnight security, resolve parking problems, provide tourism assistance, provide/set up/tear down/remove wooden barricades, provide/post/remove "Street Closed" signs, clear Main Street prior to Festival set up, provide security and basic police protection throughout the Festival, provide/post/remove "No Parking" signs throughout Festival and adjacent areas, enforce "No Parking" zones, enforce handicapped parking zones, locate lost or missing persons, provide emergency notifications, assist Festival shuttle busses, and follow other reasonable directions as requested by the Chairman and officers of the Committee.

4. The Ohio Sauerkraut Festival Committee/Waynesville Area Chamber of Commerce shall indemnify, protect, and save the Village of Waynesville and the Waynesville Police Department, its agents, employees, licensees, and volunteers, harmless from any and all kinds of loss, claims, expenses, causes of action, costs, damages, and other obligations, financial or otherwise, arising from:

(a) Negligent, reckless, or willful or wanton acts, errors, or omissions by the Ohio Sauerkraut Festival Committee/Waynesville Area Chamber of Commerce, its agents, employees, licensees, contractors, or subcontractors;

(b) The failure of the Ohio Sauerkraut Festival Committee/Waynesville Area Chamber of Commerce, its agents, employees, licensees, contractors, or subcontractors, to observe the applicable standard of care in providing service pursuant to this Agreement; and

(c) The intentional misconduct of the Ohio Sauerkraut Festival Committee/Waynesville Area Chamber of Commerce, its agents, employees, licensees, contractors, or subcontractors that result in injury to persons or damage to property.

5. The Ohio Sauerkraut Festival Committee/Waynesville Area Chamber of Commerce shall maintain comprehensive general liability insurance in the amount of \$1,000,000.00 per occurrence with an annual aggregate limit of at least \$2,000,000.00 which shall be maintained in force under a policy or policies issued by an issuer of recognized responsibility. The Village of Waynesville shall be named as an additional insured for the insurance recited in this paragraph.

6. This Agreement contains the entire Agreement between the Ohio Sauerkraut Festival Committee/Waynesville Area Chamber of Commerce and the Village of Waynesville with respect to the subject matter thereof, and supersedes all prior written or oral agreements between the parties. No representations, promises, understandings or agreements, otherwise not herein contained shall be of any force or effect.

7. No modification or amendment of any provision of this Agreement shall be effective unless made by special instrument, duly executed by the party to be bound thereby

which refers specifically to this Agreement and states that an amendment or modification is being made in the respect as set forth in such amendment.

8. Should any portion of this Agreement be deemed unenforceable by any administrative or judicial officer or tribunal of competent jurisdiction, the balance of this Agreement shall remain in full force and effect unless revised or terminated pursuant to any other section of this Agreement.
9. No waiver by either party of any breach of any provision of this Agreement, whether by conduct or otherwise, in any one or more instances shall be deemed to be, or construed as a further or continuing waiver of any such breach or as a waiver of any breach of any other provision of this Agreement. The failure of either party at any time or times to require the performance of any provision of this Agreement shall in no manner affect such party's right to enforce the same at a later time.
10. Neither party shall assign any of its rights or delegate any of its duties under this Agreement without the written consent of the other.
11. The Village hereby agrees to assume responsibility for all local, state, and federal taxes, workers' compensation, liability insurance, and any other pertinent employee related taxes, fees, charges, and benefits. While the Village acknowledges that it has liability insurance, the parties to this Agreement refer to paragraph 5 wherein the Ohio Sauerkraut Festival Committee/Waynesville Area Chamber of Commerce has agreed to provide comprehensive general liability insurance in the amount of \$1,000,000.00 per occurrence with an annual aggregate limit of at least \$2,000,000.00. Evidence of this policy shall be provided to the Village Clerk of the Village of Waynesville. The Village shall submit individual timesheets to the Ohio Sauerkraut Festival Committee/Waynesville Area Chamber of Commerce within thirty (30) days following the end of said Festival. It will be the responsibility of the Ohio Sauerkraut Festival Committee/Waynesville Area Chamber of Commerce to pay the individual officers who are assigned to the detail along with furnishing them an appropriate 1099 form. Any conflicts in time records shall be resolved between the Village and that officer. In no event shall the aggregate of all monies paid to the individual officers exceed the amount indicated in paragraph 1. In no event shall the officers be deemed as

