

**BOROUGH OF EBENSBURG**

**ORDINANCE #597**

**AN ORDINANCE OF THE BOROUGH OF EBENSBURG, CAMBRIA COUNTY, PENNSYLVANIA, AUTHORIZING INTERGOVERNMENTAL COOPERATION AND PARTICIPATION BY ESTABLISHING MEMBERSHIP WITH OTHER MUNICIPALITIES PURSUANT TO THE REQUIREMENTS OF PENNSYLVANIA CONSOLIDATED STATUTES, TITLE 53, SECTIONS 2301 AND 2315, BEING THE ACT OF DECEMBER 19, 1996, P.L. 1158, NO. 177, COMMONLY KNOWN AS THE INTERGOVERNMENTAL COOPERATION LAW, AS AMENDED, OF THE COMMONWEALTH OF PENNSYLVANIA AS TO ADMINISTRATION AND ENFORCEMENT OF THE UNIFORM CONSTRUCTION CODE**

**WHEREAS**, Pennsylvania Consolidated Statutes, Title 53, Section 2301 thru 2315, being the Act of December 19, 1996, P.L. 1158, No. 177, commonly known as the Intergovernmental Cooperation Law, is the law governing intergovernmental cooperation within the Commonwealth of Pennsylvania; and,

**WHEREAS**, the Council of Ebensburg Borough desires to participate and cooperate in the Cambria County Building Code Enforcement Agency relative to administration and enforcement of Act 45 of 1999 Uniform Construction Code (UCC), 35 P.S. 7210.101 et seq. and its Regulations promulgated thereunder, 34 PA Code Chapter 401 et. seq. as may be amended from time to time; and,

**WHEREAS**, the Council of Ebensburg Borough recognizes that enforcement of the Uniform Construction Code would be beneficial for its residents and would protect and preserve the health, safety, and welfare of its citizens; and,

**WHEREAS**, the Council of Ebensburg Borough recognizes that the coordination of service relative to administration and enforcement of the Uniform Construction Code would enable each Municipal Member of the Cambria County Building Code Enforcement Agency to minimize the costs of the administration and enforcement of the Uniform Construction Code; and,

**WHEREAS**, Pennsylvania Consolidated Statutes, Title 53, Sections 2301 through 2315, being the Act of December 19, 1996, P.L. 1158, No. 177, commonly known as the Intergovernmental Cooperation Law, requires that the aforesaid agency relationship be established by Ordinance of cooperating units of government/municipalities.

**NOW, THEREFORE**, with the foregoing recitals incorporated herein by reference, **BE IT ORDAINED AND ENACTED** by the Council of the Borough of Ebensburg, Cambria County, Pennsylvania, and it is hereby Ordained and Enacted on behalf of said Municipality, as follows.

**ARTICLE I – PURPOSE**

The Council of the Borough of Ebensburg, Cambria County, Pennsylvania, finds it desirable to enact this Ordinance to:

- A. Protect the health, safety, and welfare of the residents of the Township.

B. Create a Multi-Municipal Local Agency for the administration of the Uniform Construction Code (Act 45 of 1999 – 35 P.S. 7210.101 et. seq.) and its Regulations promulgated thereunder (34 PA Code Chapters 401 et. seq.), as amended or may be amended from time to time.

## **ARTICLE II – GRANT OF POWER**

This Ordinance is adopted pursuant to the powers granted in:

A. Act of December 19, 1996, P.L. 1158, No. 177, commonly known as the Intergovernmental Cooperation Law, governing intergovernmental cooperation agreements within the Commonwealth of Pennsylvania (53 P.S. Sections 2301 et. seq.) as amended or as may be amended from time to time; and,

B. Act 45 of 1999 – the Uniform Construction Code (35 P.S. 7210.101 et. seq.) and its Regulations (34 PA Code Chapters 401 et. seq.) as amended or may be amended from time to time; and,

C. Pennsylvania Local Agency Law (2 Pa.C.S.A. Section 105 et. seq.) as amended from time to time.

## **ARTICLE III – CREATION OF CAMBRIA COUNTY BUILDING CODE ENFORCEMENT AGENCY**

The governing body hereby:

A. Creates, constitutes and establishes the Cambria County Building Code Enforcement Agency for the purposes described above.

B. The Borough shall, within the time period established under the Regulations relative to the Uniform Construction Code i.e. between April 9, 2004, and July 8, 2004, enact an Ordinance to adopt the Uniform Construct Code (Act 45 of 1999).

C. As soon as possible, but not later than thirty (30) days after adoption of this Ordinance, every Member shall, by action of its Governing Body, appoint a Representative to the Cambria County Building Code Program Committee. Such Program Committee Member shall be a member of the Governing Body of the Member Municipality.

D. Conveys to the Cambria County Building Code Enforcement Agency, through its officers/Program Committee, employees, servants and agents the authority to act on behalf of the Governing Body relative to the administration and enforcement of all aspects of the Uniform Construction Code and Regulations promulgated thereunder;

E. Directs the Program Committee to, at all times, act in a manner consistent with said Act and Regulations and the additional provisions of this Ordinance.

F. Directs the Program Committee to establish and, further, pledges to pay in a timely manner, initial and annual membership fees, together with prorated or equal share of costs of the salary and benefit package of the Code Official(s) and other employees as to generally acceptable office administration and expenses. Directs the payment of other costs of administering the Uniform Construction Code within the Municipality, including but not limited to the enactment, amendment and updating of ordinances and prosecution costs for violations of ordinances.

G. Authorizes the Program Committee to acquire, manage, license and/or dispose of real and/or personal property for the necessary operation of the Agency.

#### **ARTICLE IV – RESPONSIBILITIES OF PARTICIPATING MUNICIPALITIES**

The following activities/actions are the sole responsibility of the Member Municipalities:

A. Drafting and enacting an ordinance that authorizes and/or ratifies the Municipality's participation in the Cambria County Building Code Enforcement Agency and the entering into Agreement(s) in accordance with the requirements of the Intergovernmental Cooperation Law/Act.

B. Adopting and amending the Municipality's existing fee resolution providing for identical fees to be imposed for the issuance of building permits and other permits required under the Codes to be enforced as part of the Cambria County Building Code Enforcement Agency.

C. Provide adequate insurance coverage for all aspects of the Program to include errors and omissions insurance and general liability insurance for actions of the Code Official(s) and the Program Committee.

D. In the event a third-party agency or individual is retained for code enforcement services, to obtain verification of liability insurance, errors and omissions insurance and workmen's compensation insurance in such amount(s) as determined by the Program Committee, with proper evidence of certifications of insurance being provided on an annual basis or such other period of time as determined by the Program Committee.

E. Eliminate the position of, or modify the responsibilities of, any existing Municipal employee so as to eliminate conflicts and/or overlaps with the responsibilities of the Code Official(s).

#### **ARTICLE V – RESPONSIBILITIES OF PROGRAM COMMITTEE**

The following activities are the responsibility of the Program Committee:

A. Prepare and adopt by-laws that:

1. Define the method by which (future) committee representatives will be appointed.
2. Set forth the method by which the Committee will conduct business.
3. Establish a quorum for the conduct of business.
4. Establish meeting times and dates.
5. Define the manner in which vacancies will be filled.
6. Create any necessary subcommittees.
7. Establish fees for the various services to be performed.
8. Establish a Board of Appeals in accordance with the Act 45 of 1999 and its Regulations.

B. Prepare and submit an annual budget;

C. Prepare and submit annual reports to participating municipalities;

D. Prepare and submit, on behalf of the Member Municipalities, applications for grants-in-aid or as to the securing of other necessary financial assistance and/or loans necessary for the operation of the Agency;

E. Recruiting and hiring of the Code Official(s) and other employees of the Agency and directing their/its responsibilities and duties.

F. Establishment of the salary and benefit package for the Code Official(s) and other employees of the Agency.

G. Evaluation of the performance of the Code Official(s) within the first six (6) months and annually thereafter.

H. Review of ordinances of each Municipality with suggestion for the enactment of new ordinances to be administered by the Cambria County Building Code Enforcement Agency.

I. Resolution of any problems or concerns between Municipalities and the formulation of policy-oriented decisions.

J. Create an employees' manual containing job descriptions, and qualifications for employment.

K. Secure by contract, or other arrangement, legal counsel and the services of other professions, as may be necessary or desirable to advance the work of the Committee.

#### **ARTICLE VI – INTERGOVERNMENTAL COOPERATION AGREEMENT**

Each Member Municipality shall enter into an Inter-municipal Agreement in the form as attached hereto as Exhibit "A", and any supplements and/or amendments thereto; or enter into such other Intergovernmental Cooperation Agreement(s) which, from time to time may be approved by and submitted to the Member Municipalities by the Program Committee. Each Member Municipality agrees to abide by and to be legally bound by such Intergovernmental Agreements(s), and any Intergovernmental Agreement(s) entered into as of the date of this Ordinance's adoption and/or amendments/supplements relative thereto. This Ordinance ratifies and amends any Intergovernmental Agreement entered into, to the extent inconsistent herewith, and allows for the adoption (if need be) of a subsequent Intergovernmental Cooperation Agreement.

#### **ARTICLE VII – TERM OF PARTICIPATION, NEW MEMBERS**

A. The participation in the Cambria County Building Code Enforcement Agency by the governing body shall begin on the effective date of this Ordinance, and shall continue for a period of one year.

B. After the expiration of the aforesaid one year period, participation shall continue; such participation shall continue on a year to year basis unless ninety (90) days prior to the beginning of the fiscal year, the Municipality notifies the Agency, in writing, of its intent to repeal this Ordinance.

C. Additional municipalities may become a Member of the Agency upon obtaining the consent of the Program Committee and thereafter enacting this Ordinance in its entirety.

D. In the event that it becomes necessary to change this Ordinance in whole or in part, no changes shall become effective and no new or altered obligation or duty shall be placed upon the Program Committee and/or Agency, and no change in the term of this Ordinance shall become effective until such time as every participating municipality shall have adopted an identical amendatory ordinance or duly adopted Resolution.

#### **ARTICLE VIII – SEVERABILITY**

If any sentence, clause, section, part or article of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such finding shall not impair, affect or have similar effect upon any of the remaining sentences, clauses, sections, or parts or articles. It is hereby declared that the intent of this Governing Body would have been to

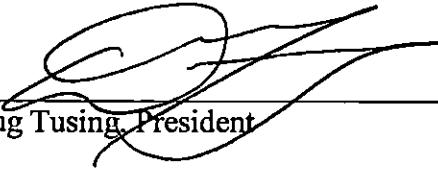
enact and adopt the remainder of the Ordinance as if the unconstitutional, illegal or invalid portion had not been included in the original enactment.

**ARTICLE IX – EFFECTIVE DATE**

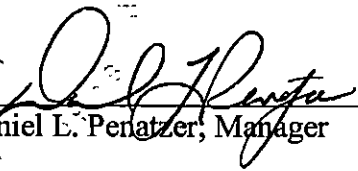
This Ordinance shall take effect immediately from the date of adoption inscribed below.

ENACTED AND ORDAINED this 23<sup>rd</sup> day of January 2012.

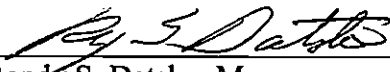
EBENSBURG BOROUGH COUNCIL

  
\_\_\_\_\_  
Doug Tusing, President

ATTEST:

  
\_\_\_\_\_  
Daniel E. Penatzer, Manager

Approved this 23<sup>rd</sup> day of January 2012.

  
\_\_\_\_\_  
Randy S. Datsko, Mayor

**INTERGOVERNMENTAL COOPERATION AGREEMENT**  
**INTERMUNICIPAL AGREEMENT**

**THIS AGREEMENT made this 19<sup>th</sup> day of December 2011**

**BY AND BETWEEN**

The Borough of Ebensburg, a municipal corporation organized under the Laws of Pennsylvania with its municipal office located in the County of Cambria, Commonwealth of Pennsylvania;

AND

Various other local participating Boroughs and Townships within the Commonwealth, for a purpose.

**WITNESSETH:**

**WHEREAS**, the Borough of Ebensburg and several other participating communities (the "Municipalities") are municipalities located within either the County of Cambria or the County of Somerset, Pennsylvania; and,

**WHEREAS**, the Borough of Ebensburg and the Municipalities recognize that the growth and development within the two counties in general, and in the Borough of Ebensburg, in particular, have increased the need for municipal services to their residents; and,

**WHEREAS**, each Municipality has also recognized that enforcement of the Uniform Construction Code would be beneficial for its residents and would protect and preserve the health, safety, and welfare of its citizens; and,

**WHEREAS**, the Municipalities have recognized that administration of a code enforcement program would be best undertaken through the employment or contract of a trained professional code official(s); and,

**WHEREAS**, the Municipalities recognize that the employment of separate code officials to perform identical tasks within each Municipality could result in the duplication of effort to the detriment of the residents of the Municipality; and,

**WHEREAS**, the Municipalities recognize that the coordination of services would enable such Municipality to minimize the costs of the administration of a code enforcement program; and,

**WHEREAS**, the Act of December 19, 1996, P.L. 1158, No. 177- 53 P.S. 2301 et seq., also known as the Intergovernmental Cooperation Act, permits Municipalities to enter into agreements to cooperate in the performance of their respective functions, powers or responsibilities upon the adoption of an Ordinance (see 53 P.S. 2305); and,

**WHEREAS**, the Pennsylvania Department of Community and Economic Development ("Department") has established a program to encourage municipalities to enter into such agreements for the sharing of code enforcement services; and,

**WHEREAS**, the Borough of Ebensburg, Cambria County, Pennsylvania, and other participating municipalities hereby enter into an agreement whereby they will jointly and in conjunction establish a program of code enforcement to serve the Municipalities.

**NOW, THEREFORE**, with the foregoing background incorporated herein by reference and made a part hereof, and in consideration of the mutual promises and obligations set forth herein, and intending to be legally bound hereby, the parties agree as follows:

1. Establishment Of Multi-Municipal Code Enforcement Program: The Borough of Ebensburg, Cambria County, Pennsylvania and several other participating municipalities shall establish a program for the enforcement of municipal codes which shall include the enactment of certain ordinances and the sharing of the services of a code official(s) in accordance with the provisions of this Agreement. Such program shall be known as the Multi-Municipal Code Enforcement Program and shall be administered in accordance with the provisions of this Agreement.

2. Establishment Of Codes: It is the intention of the Borough of Ebensburg, Cambria County, Pennsylvania, and other participating municipalities, that the Multi-Municipal Code Enforcement Program shall include the Uniform Construction Code and all applicable codes by reference. The Municipalities intend that the Multi-Municipal Code Enforcement Program may be extended, upon agreement and/or authorized administrative action, to include other code enforcement programs in the future.

A. Enactment of the Uniform Construction Code:

Within ninety (90) days following execution of this Agreement, the municipalities shall enact ordinances, in substantially identical form, to adopt the Uniform Construct Code (Act 45 of 1999).

B. Incorporation Of Additional Codes Into Program:

It is the intent of the Municipalities not to limit this Agreement to enforcement of the code listed in Paragraph 2(A) herein. Upon agreement of the Municipalities, the Code Official(s) may enforce other codes, including but not limited to property maintenance codes. The Program Committee shall determine such other codes that shall be included in the Multi-Municipal Code Enforcement Program, any amendments or updates necessary to such codes and ordinances, and the time frames within which such ordinances shall be enacted or amended.

3. Establishment of Program Committee: The Multi-Municipal Code Enforcement Program shall be administered by the Program Committee.

A. Membership:

The Program Committee shall be composed of one (1) member of the governing body of each participating Municipality, appointed for a one (1) year term by the governing body at its first meeting in January of each calendar year. The initial members of the Program Committee shall be appointed by the governing bodies within thirty (30) days from the execution of this Agreement. Each governing body may, if it so desires, appoint an alternate member to the Program Committee.

B. Meetings:

The Program Committee shall meet at times to be selected by the Members of the Program Committee.

C. Voting:

All actions by the Program Committee shall be taken by a majority of quorum of the Members of the Program Committee.

D. Quorum:

A quorum of the Program Committee shall be as set forth in the by-laws.

4. Responsibility of Municipalities: The following activities are the individual responsibility of each Municipality:

- A. Drafting and enacting an ordinance that authorizes and/or ratifies the Municipality's participation in the Multi-Municipal Code Enforcement Program and entering into of this Agreement in accordance with the requirements of the Intergovernmental Cooperation Act/Law
- B. Adopting or amending the Municipality's existing fee resolution providing for identical fees to be imposed for the issuance of building permits and other permits required under the codes to be enforced as part of the Multi-Municipal Code Enforcement Program.
- C. Provide adequate insurance coverage for all aspects of the Program to include errors and omissions insurance and general liability insurance for actions of the Code Official(s) and the Program Committee.
- D. In the event a third-party agency or individual is retained for code enforcement services, verification of liability insurance, errors and omissions insurance and workmen's compensation insurance in such amount(s) as determined by the Program Committee with proper evidence of certifications being provided on an annual or such other period of time as determined by the Program Committee.
- E. Eliminate the position of, or modify the responsibilities of, any existing Municipal employee so as to eliminate conflicts and/or overlaps with the responsibilities of Code Official(s).
- F. If required, provide or aid in obtaining and maintaining adequate office space to house the Code Official(s). This space shall be readily accessible to the public, and provision shall be made for secure record-keeping facilities, telephone service, computers and copying equipment.

5. Responsibility of Program Committee: The following activities are the responsibility of the Program Committee:

- A. Recruiting and hiring of the Code Official(s).
- B. Establishment of the salary and benefit package for the Code Official(s).
- C. Evaluation of the performance of the Code Official(s) within the first six (6) months and annually thereafter.
- D. Review of ordinances of each Municipality with suggestions for the enactment of new ordinances to be administered by the Multi-Municipal Code Enforcement Program.
- E. Resolution of any problems or concerns among the Municipalities and the formulation of policy-oriented decisions.

6. Construction Code Official: A Code Official(s) shall be hired or retained in accordance with the terms of this Agreement in order to implement the Multi-Municipal Code Enforcement Program:

- A. Hiring:  
A mutually acceptable organization or agency shall advertise for a Code Official(s). Such advertisement shall set forth criteria for a Code Official(s) in accordance with the requirements of the Uniform Construction Code licensing and certification regulations.



The mutually acceptable organization or agency shall interview candidates for the position and shall present a candidate for the consent of the Program Committee. No candidate shall be selected who does not meet the qualifications set forth in the advertisement for the position.

- B. The Code Official(s) shall be hired for a ninety (90) day probationary period. If the performance of the Code Official(s) is not satisfactory during the probationary period, the Code Official(s) shall be discharged.
- C. The Code Official(s) shall allocate its time as required between the Municipalities. The Municipalities recognize that it is impossible to equally divide each day or even each week because permit applications or inspections may be needed more frequently in one Municipality than in another in any given week. However, it is the intent of this Agreement that the Municipalities shall receive the required allocations of the services of the Code Official(s).
- D. Office hours shall be established by the Code Official(s) with the consent of the Program Committee.
- E. The Program Committee shall provide for and/or name/appoint a Board of Appeals in accordance with the criteria and as set forth in the Uniform Construction Code.

7. Program Cost Sharing: Each Municipality shall participate in a prorata or equal share of the cost of the salary and benefit package of the Code Official(s) (who will administer the Multi-Municipal Code Enforcement Program) and in generally acceptable office administrative costs and expenses. Each Municipality shall participate and pay for other costs of administering the Multi-Municipal Code Enforcement Program within that Municipality, including but not limited to the enactment, amendment and updating of ordinances, and prosecution costs for violations of ordinances. Any fines or penalties recovered by a Municipality for a violation of its ordinances shall be the sole property of the prosecuting Municipality.

- A. Grants:  
Each Municipality shall take every reasonable step to obtain from federal, state and other agencies such grants and aid as may be from time to time available for code enforcement and for intermunicipal cooperation. If grants may be obtained for the purchase of property to be used, such as a computer, the program Committee shall coordinate the application and shall determine which Municipality or agency shall take title to any such equipment.

8. Duration Of Agreement: The term of this Agreement shall be for a period of one (1) year commencing with the date of execution hereby by the Borough of Ebensburg, Cambria County, Pennsylvania, and several other participating municipalities. This Agreement shall be automatically renewed for an additional term of one (1) year at the conclusion of the initial term and each renewal term thereafter unless, at least ninety (90) days prior to the beginning of the fiscal year, the Municipality which does not desire to renew the Agreement gives written notice of such refusal to renew to the other Municipalities in writing.

9. Participation Of Other Municipalities. Additional municipalities may become a party to this Agreement upon the consent of the Program Committee at the time such a request is made. A municipality which desires to become a party to this Agreement shall make application to the Program Committee and shall in writing agree to accept all terms and conditions of this Agreement. Failure to act upon an application to become a party to this Agreement within sixty (60) days of receipt of such application shall be considered to be a denial of consent to become a party to this Agreement.

10. Withdrawal From Agreement. Any municipality may withdraw from participation at the end of the term of this Agreement or an extension thereof by notifying the Program Committee in writing of the intention to withdraw at least ninety (90) days before the expiration of such term as provided in Section 8 herein. Notwithstanding the foregoing, any municipality may withdraw from this Agreement for cause by providing the Program Committee with written notification of the cause for such withdrawal. During such notification period, the governing body of any other municipality shall have the right to challenge the cause for withdrawal. In the event such a challenge is made, the withdrawing municipality and the challenging municipality shall mediate their differences within thirty (30) days. If, after meeting with a mediator, such differences can not be resolved, the withdrawing municipality shall be permitted to withdraw on the next anniversary date of this Agreement.

11. Amendment: This Agreement may be amended only by written instrument signed by all Participating Municipalities.

12. Interpretation: This Agreement shall be interpreted in accordance with the laws of the Commonwealth of Pennsylvania.

13. Severability: The provisions of this Agreement are severable, and if any section, sentence, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Agreement. It is hereby declared to be the intent of the governing bodies of each Participating Municipality that this Agreement would have been entered into if such illegal, invalid or unconstitutional section, sentence, clause, part or provisions had not been included herein.

14. Enactment Of Ordinance Under Intergovernmental Cooperation Act: The governing body of each Municipality agrees to enact an Ordinance prior to the date hereof pursuant to and in accordance with the Pennsylvania Intergovernmental Cooperation Act for the purpose of authorizing and effectuating this Agreement.

15. Construction: When the tense so requires, words of any gender used in this Agreement shall be held to include any other gender, and words in the singular number shall be held to include the plural, and vice versa.

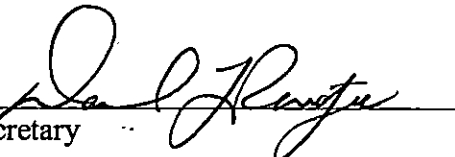
**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

Borough of Ebensburg  
Cambria County, Pennsylvania

By:

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Secretary

SEAL