

**INTERGOVERNMENTAL COOPERATION AGREEMENT BY AND BETWEEN
CAMBRIA TOWNSHIP, JACKSON TOWNSHIP AND EBENSBURG BOROUGH
FOR THE ESTABLISHMENT OF A CENTRAL CAMBRIA
BUILDING AND HOUSING CODE BOARD OF APPEALS**

THIS AGREEMENT, made this _____ day of _____ 2009, by and between:

CAMBRIA TOWNSHIP, a Pennsylvania municipal corporation having its principal office at P. O. Box 248, 184 Municipal Road, Revloc, Pa 15948, Cambria County, Pennsylvania,

AND

JACKSON TOWNSHIP, a Pennsylvania municipal corporation having its principal office at 513 Pike Road, Johnstown, Pa 15909, Cambria County, Pennsylvania,

AND

EBENSBURG BOROUGH, a Pennsylvania municipal corporation having its principal office at 300 West High Street, Ebensburg, Pa 15931, Cambria County, Pennsylvania.

WITNESSETH

WHEREAS, the parties recognize the benefits of sharing municipal resources and services;
and

WHEREAS, by separate Agreement, the parties have created the Central Cambria Codes Enforcement Agency in order to enforce building codes, zoning regulations and other municipal ordinances, including the Uniform Construction Code; and

WHEREAS, the Act of December 19, 1999, P.L. 1158, No. 177, 53 Pa. C.S.A., Section 2301, et. seq., also known as the Intergovernmental Cooperation Act (Act 77), permits municipalities to enter into agreements to cooperate in the performance of their respective functions, powers and responsibilities.

WHEREAS, the parties intend to establish a "Central Cambria Regional Building and Housing Code Board of Appeals" (hereinafter referred to as the "Board of Appeals") capable of rendering uniform technical and legal decisions, and to provide for uniformity of Code interpretations for participating municipalities; and

WHEREAS, the parties intend to implement rules and regulations for the organization, conduct and operation of the Board of Appeals.

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:

SECTION 1 - ESTABLISHMENT OF BOARD OF APPEALS

- a) The parties do hereby create and establish the “Central Cambria Regional Building and Housing Code Board of Appeals,” hereinafter referred to as the “Board of Appeals.”
- b) The parties hereby designate, by approval and execution of this Agreement, the Board of Appeals as the body to hear appeals brought under the:
 - 1) The codes and standards promulgated in the most current version of the Uniform Construction Code (Act 45 of 1999) of the Commonwealth of Pennsylvania as amended by the participating municipalities, and as subsequently adopted in Title 34 PA Code Chapters 401, 403 and 405.
 - 2) The Rules and Regulations contained in Title 34 Code Chapters 401 to 405, adopted by the Pennsylvania Department of Labor and Industry.
 - 3) The International Code Council Property Maintenance Code as amended by the participating municipalities.
 - 4) International Code Council Fire Code as amended by the participating municipalities.

SECTION 2 - PURPOSE

The Board of Appeals is established to provide a process for the resolution of code grievances derived from the decision of the code official in order to insure the health, safety, and general welfare for the citizens of the participating municipalities.

SECTION 3. ORGANIZATION

- a) Any resident of the participating municipalities having the qualifications according to Section 3.c or 3.d shall be eligible for appointment to the Board of Appeals by any of the participating municipalities. The intent of the Board of Appeals is to provide uniform interpretation of the codes and to recruit persons who are well qualified professionally regardless of residence. Therefore, it is not expected that representation will necessarily reflect any sort of balance among the municipalities.
- b) The Central Cambria Coalition shall recommend a slate of nominations to the participating municipalities for appointment by the participating municipalities to the Board of Appeals.
- c) Members of the Board of Appeals shall not hold any other elected or appointed office within the participating municipalities.

- d) The Board of Appeals shall be composed of five members. Each member of the Board of Appeals shall be qualified by training and experience to pass on matters pertaining to building construction. Training and experience may consist of licensure as an architect or engineer, experience in the construction industry, and training or experience as an inspector or plan reviewer.
- e) Members of the Board of Appeals shall serve without compensation and for the period as follows:
 - One member appointed by Cambria Township, initial term expires December 31, 2014.
 - One member, appointed by Jackson Township, initial term expires December 31, 2013.
 - One member, appointed by Ebensburg Borough, initial term expires December 31, 2012.
 - One member, appointed by Cambria Township, initial term expires December 31, 2011.
 - One member, appointed by Jackson Township, initial term expires December 31, 2010.Thereafter, each member shall serve for a term of five years.
- f) The Board of Appeals shall elect a Chairperson and Vice-Chairperson from among its members at the first meeting of any year. The Chairperson or Vice-Chairperson shall have the authority to call the Board of Appeals into a special session.
- g) The Board of Appeals shall only consider the following factors when deciding an appeal under Title 34 Chapter 403.121, Rules and Regulations – Board of Appeals:
 - 1) The true intent of the Act or Uniform Construction Code was incorrectly interpreted.
 - 2) The provisions of the Act do not apply.
 - 3) An equivalent form of construction is to be used.
- h) The Board of Appeals may consider the following factors when ruling upon a request for extension of time or the request for variance:
 - 1) The reasonableness of the Uniform Construction Code's application in a particular case.
 - 2) The extent to which the granting of a variance or an extension of time will pose a violation of the Uniform Construction Code or an unsafe condition.
 - 3) The availability of professional or technical personnel needed to come into compliance.
 - 4) The availability of materials and equipment needed to come into compliance.
 - 5) The efforts being made to come into compliance as quickly as possible.
 - 6) Compensatory features that will provide an equivalent degree of protection to the Uniform Construction Code.

- i) If the owner or owner's agent requests a hearing, the Board of Appeals shall schedule a hearing and notify the owner or owner's agent and building code official of the date, time and place of the hearing. The Board of Appeals may deny the request in whole or in part, grant the request in whole or in part, or grant the request upon certain conditions being satisfied.

SECTION 4 - APPEAL PROCEDURE

- a) All appeals shall be legally advertised and conducted according to the Pennsylvania State "Sunshine Act" (65 PA C.S. 701-716), as amended. The Board of Appeals shall adopt formal rules for its proceedings.
- b) The appellant wishing to appeal the decision of the Code Official shall do so within thirty (30) calendar days upon receipt of the written decision.
- c) The Board of Appeals may request and obtain legal counsel through the Central Cambria Codes Enforcement Agency.
- d) The appellant wishing to appeal the decision of the Board of Appeals shall do so to the Borough Council/Board of Supervisors in the appropriate municipality within thirty (30) calendar days upon receipt of the written decision.
- e) The Board of Appeals shall provide a written notice of its decision to the owner and to the building code official.

SECTION 5 - WITHDRAWAL PROCEDURES

This Agreement shall remain in effect until December 31, 2010. Thereafter, this agreement shall automatically extend for one (1) year periods commencing January 1st and ending on December 31st of each year, unless terminated by any party giving the other parties hereto written notice of such termination at least one hundred twenty (120) days prior to the end of the initial or any extended term of this Agreement.

SECTION 6 - AMENDMENT PROCEDURES

Amendments to this Agreement may be recommended by the Central Cambria Coalition or by the parties. Any amendment or change to these articles shall be approved by Ordinance by each of the parties.

SECTION 7 – INTERPRETATION

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

SECTION 8 – 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 party that this Agreement would have been entered into if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION 9 - EFFECTIVE DATE

The effective date of this agreement shall be January 1, 2010.

(Remainder of page intentionally left blank)

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

TOWNSHIP OF CAMBRIA

Robert J. Shook, Chairman

Attest:

David Hoover, Supervisor

Norma Cicero, Secretary

Peter Berkoski, Supervisor

TOWNSHIP OF JACKSON

Bruce A. Baker, Chairman

Attest:

David J. Bracken, Supervisor

David M. Hirko, Secretary

John A. Wallet, Supervisor

BOROUGH OF EBENSBURG

Attest:

Deborah A. Nesbella, President

Daniel L. Penatzer, Secretary

