

BOROUGH OF PORTAGE
CAMBRIA COUNTY
PENNSYLVANIA

ORDINANCE NO. 1-2011

AN ORDINANCE OF THE BOROUGH OF PORTAGE, 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 PORTAGE 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 PORTAGE 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 PORTAGE Borough recognizes that the coordination of services 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 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 PORTAGE, 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 PORTAGE, Cambria County, Pennsylvania, finds it desirable to enact this Ordinance to:

- A. Protect the health, safety, and welfare of the residents of the BOROUGH 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 or as may be 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 the 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 a 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 suggestions 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 Agreement(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.

ADOPTED this 7TH day of MARCH, 2011 by the Council of the Borough of PORTAGE, Cambria County, Pennsylvania.

BOROUGH OF PORTAGE

Sharon M. McCarty
Council President ~~SHARON M. MCCARTY~~
Robert Fox
Mayor
ROBERT FOX

ATTEST:

Michelle Lane
Secretary

SEAL