

**RESTATED AND AMENDED AGREEMENT FOR
THE ESTABLISHMENT OF A CENTRAL LANCASTER COUNTY
UNIFORM CONSTRUCTION CODE BOARD OF APPEALS
2007**

This AGREEMENT is made this 19th day of December, 2007, by and among the Townships of Manor, Pequea, West Hempfield, and West Lampeter, and the Boroughs of Columbia, East Petersburg, Millersville, Mountville, and Strasburg, County of Lancaster, Commonwealth of Pennsylvania, to establish a Central Lancaster County Uniform Construction Code Board of Appeals (“Appeals Board”).

DEFINITIONS

LIMC – The Lancaster Inter-Municipal Committee.

Municipality – Any city, borough, or township in Lancaster County, Pennsylvania.

Participating Municipality – Any Municipality that is a party to this Agreement or becomes a party to this Agreement. A Participating Municipality may be either a Member Municipality or an Associate Municipality.

Member Municipality – A Participating Municipality that is also a member of the LIMC.

Associate Municipality – A Participating Municipality that is not a member of the LIMC.

Pennsylvania Construction Code Act – Act 45 of 1999, as amended and as may be amended in the future, 35 P.S. §7210.101 et seq.

Regulations – All regulations duly adopted by the Pennsylvania Department of Labor and Industry or successor agency designated by the Pennsylvania Construction Code Act to implement the Pennsylvania Construction Code Act including, but not limited to, 34 Pa. Code Chapters 401, 403, and 405.

BACKGROUND

The Legislature of Commonwealth of Pennsylvania adopted legislation known as the Pennsylvania Construction Code Act, which established the Uniform Construction Code (the “Code”). The purpose of the Uniform Construction Code is to establish uniform standards for construction and the administration and enforcement of such standards.

The Uniform Construction Code provides that individual municipalities may elect to administer the provisions of the Code (by adoption of an ordinance) or allow the Department of Labor and Industry to administer the Code within their municipal boundaries. Municipalities electing to administer the Code must establish a board of appeals to hear appeals from decisions of the Code administrator. The Code allows for the establishment of a joint board of appeals by municipalities electing to administer the Code pursuant to the terms of the Intergovernmental Cooperation Law, 53 Pa. C.S.A. § 2301, et seq. The Participating Municipalities have elected to administer the Code.

By Agreement dated June 14, 2004, the Townships of Manor, Pequea, West Hempfield, and West Lampeter, and the Boroughs of East Petersburg, Millersville, and Mountville, established the Central Lancaster County Uniform Construction Code Board of Appeals (“Appeals Board”) to hear appeals from decisions of the individuals municipalities’ code administrators as provided for by the Uniform Construction Code (“Original Agreement”). Those original participants now desire to amend and restate the Original Agreement to provide for a method of allowing other municipalities to participate in this Agreement.

The purpose of this amended and restated Agreement is to confirm and ratify the establishment of a board of appeals to render code interpretations for the Participating Municipalities and to further provide for a method of allowing Municipalities desiring to be Member Municipalities and Associate Municipalities to participate without further amending the Agreement. The parties to this Agreement agree that the Appeals Board formed under the Original Agreement shall continue to serve as the Appeals Board and need not be reappointed. Further, the parties to this Agreement agree that the individuals designated to serve on the Appointments Committee by the parties to the Original Agreement need not be reappointed as a result of this Amended and Restated Agreement.

The Participating Municipalities have entered this Agreement to comply with the provisions of the Pennsylvania Construction Code Act, the Uniform Construction Code, and the Regulations.

The provisions herein are intended to implement rules and regulations for the organization, conduct, and operation of the Appeals Board.

NOW, THEREFORE, with the foregoing Background incorporated by reference and intending to be legally bound, the Participating Municipalities agree to the following:

SECTION 1. ESTABLISHMENT OF APPEALS BOARD

- 1.1 The Participating Municipalities do hereby ratify and confirm the creation and establishment of the “Central Lancaster County Uniform Construction Code Board of Appeals,” hereinafter referred to as the “Appeals Board.” The Appeals Board as currently constituted shall continue to serve as the appellate body which hears appeals from decisions of the Participating Municipalities’ code administrators as provided for by the Uniform Construction Code and Regulations. The Appeals Board need not be reappointed.
- 1.2 The Participating Municipalities have or shall designate by ordinance the Appeals Board as the body to hear appeals brought under:
 - 1.2.1 The Uniform Construction Code and ordinances adopting and/or amending the Uniform Construction Code.
 - 1.2.2 The Regulations.
- 1.3 The Participating Municipalities shall share the administrative costs of the Appeals Board and Appointments Committee (as defined hereafter) in equal shares. Administrative costs shall not include costs relating to any specific appeals, which are covered in paragraph 5.6.

SECTION 2. PARTICIPATION

- 2.1 Any LIMC Municipality that desires to become a Member Municipality may do so upon the completion of the following:
 - 2.1.1 Adoption of an ordinance approving this Agreement by the proposed Member Municipality;
 - 2.1.2 Execution of a counterpart of this Agreement;
 - 2.1.3 Identification of the proposed Member Municipality’s representative to the Appointments Committee; and
 - 2.1.4 The expiration of forty-five (45) days from the provision of written notice to the LIMC and Appeals Board that the Municipality has adopted an appropriate ordinance and executed the Agreement.

No amendment to this Agreement or approval of the Participating Municipalities is required for an LIMC Municipality to join this Agreement.

2.2 Any other Municipality may become an Associate Municipality under this Agreement upon the completion of the following:

2.2.1 Approval of the Municipality to join this Agreement by a three-fourths vote of the Member Municipalities present at a regular meeting of the LIMC, following receipt of opinions from the Appointments Committee and the Appeals Board;

2.2.2 Adoption of an ordinance approving this Agreement by the proposed Associate Municipality;

2.2.3 Execution of a counterpart of this Agreement; and

2.2.4 Identification of the proposed Associate Municipality's representative to the Appointments Committee.

Except as set forth above, no amendment to this Agreement or approval of the Participating Municipalities is required for a non-LIMC Municipality to join this Agreement.

2.3 Services to an Associate Municipality may be terminated on six months' written notice after a three-fourths vote of the Member Municipalities present at a regular meeting of the LIMC, upon recommendation from the Appeals Board or Appointments Committee to terminate the Associate Municipality.

2.4 An Associate Municipality shall pay all or a share of the costs involved in its becoming an Associate Municipality, upon request from the Participating Municipalities or LIMC, as the case may be.

SECTION 3. PURPOSE

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

SECTION 4. ORGANIZATION

4.1 Any resident of the Participating Municipalities having the qualifications set forth in the Regulations shall be eligible for appointment to the Appeals Board. The intent of the regional appeals board is to provide uniform interpretation of the codes and to recruit persons who are well qualified professionally. Therefore, it is

not expected that representation will necessarily reflect any sort of balance among the Participating Municipalities. Further, upon the execution of this amended and restated Agreement and/or any future addition of Member Municipalities or Associate Municipalities to this Agreement, it will not be necessary to reappoint the Appeals Board or make any adjustment to the Appeals Board's composition.

A resident of any other Municipality may fill a position on the Appeals Board when the Participating Municipalities cannot find a person within the Participating Municipalities who satisfies the requirements of the Regulations.

- 4.2 Each Participating Municipality may nominate one or more persons who meet the requirements of the Regulations to serve on the Appeals Board. An Appointments Committee consisting of one representative from each Participating Municipality shall review the nominees and appoint an Appeals Board of seven members; the Appointments Committee representative from each Participating Municipality shall be appointed by that municipality's governing body. The term of a member of the Appeals Board shall be three years. Initial appointments to the Appeals Board were staggered so that three members serve for three years, two members serve for two years, and two members serve for one year. In case of a vacancy on the Appeals Board, each Participating Municipality may nominate a person to fill the vacancy, and the Appointments Committee shall appoint a member to fill the vacancy for the remainder of the unexpired term. Meetings of the Appointments Committee shall be conducted in accordance with the Sunshine Act (65 Pa. C. S. §701 et seq.). The members of the Appeals Board shall hear appeals from the decision of the code administrators of the various municipalities.
- 4.3 Members of the Participating Municipalities' governing boards and their code administrators may not serve on the Appeals Board.
- 4.4 The sitting members of the Appeals Board shall be composed of five members and two alternates. For a given appeal the chairperson of the Board of Appeals shall select the 5 members who shall hear the appeal.
- 4.5 Members of the Appeals Board shall serve without compensation and for the period as follows:
 - 4.5.1 Except as provided for in paragraph 4.2 for initial members of the Appeals Board, members shall serve a maximum of three consecutive terms (a term consists of three years).
 - 4.5.2 A year shall commence on August 1st and end the succeeding year on July

31st.

- 4.5.3 The Appointments Committee shall be entitled to remove and/or replace members of the Appeals Board with or without cause.
- 4.6 The Appeals Board shall elect a Chairperson and Vice Chairperson at the August organizational meeting. The Appeals Board shall meet throughout the year on an as-needed basis but no more frequently than once per month unless the Appeals Board determines it appropriate to meet more often. The time and place of such meetings shall be determined by the Chairperson.
- 4.7 Staff support for the Appeals Board for a specific appeal shall be provided by the Participating Municipality from which the appeal arose. If a meeting includes appeals from two or more Participating Municipalities, those Participating Municipalities shall decide how to share in the provision of staff support.
- 4.8 The Appeals Board shall only consider those factors identified in the Regulations when deciding an appeal.
- 4.9 The Appeals Board may consider the following factors when ruling upon a request for extension of time or the request for variance:
- 4.9.1 The reasonableness of the Uniform Construction Code's application in a particular case.
- 4.9.2 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.
- 4.9.3 The availability of professional or technical personnel needed to come into compliance.
- 4.9.4 The availability of materials and equipment needed to come into compliance.
- 4.9.5 The efforts being made to come into compliance as quickly as possible.
- 4.9.6 Compensatory features that will provide an equivalent degree of protection to the Uniform Construction Code.
- 4.10 If the owner or owner's agent requests a hearing, the Appeals Board shall schedule a hearing and notify the owner or owner's agent and building code administrator

of the date, time and place of the hearing.

The Appeals Board may:

4.10.1 Deny the request in whole or in part.

4.10.2 Grant the request in whole or in part.

4.10.3 Grant the request upon certain conditions being satisfied.

SECTION 5. APPEAL PROCEDURE

- 5.1 All meetings and hearings shall be legally advertised and conducted according to the Pennsylvania State “Sunshine Act” (65 PA C.S. 701-716), as amended, and all other applicable law, including the Pennsylvania Construction Code Act, Uniform Construction Code, and Regulations. The Appeals Board shall adopt formal rules for its proceedings.
- 5.2 An owner wishing to appeal a decision of the construction code administrator shall file an appeal within the timeframe provided by applicable law. All appeals shall be filed in writing with the construction code administrator or Manager of the Participating Municipality.
- 5.3 The Appeals Board may request and obtain legal counsel.
- 5.4 An owner wishing to appeal the decision of the Appeals Board shall do so to the Lancaster Court of Common Pleas in accordance with the Local Agency Law (2 Pa. C. S. §751 et seq., as amended) within thirty (30) calendar days of the Appeals Board’s decision.
- 5.5 The Appeals Board shall provide a written notice of its decision to the owner and to the building code administrator in accordance with applicable law.
- 5.6 Costs, including advertising costs, related to a specific appeal shall be borne by the Participating Municipality from which the appeal arose, to the extent not covered by fees and charges imposed by that Participating Municipality upon the appellant owner. A Participating Municipality may establish a fee for the filing of an appeal, which shall be retained by the Participating Municipality.

SECTION 6. WITHDRAWAL PROCEDURES

A Participating Municipality may withdraw from the Appeals Board upon sixty (60) days written notice to the other Participating Municipalities. Withdrawal will not affect membership in the Lancaster Inter-Municipal Committee. Further, withdrawal will not affect the appointments to the Appeals Board.

SECTION 7. AMENDMENT PROCEDURES

Amendments to this Agreement may be recommended by the Appeals Board, the Lancaster Intermunicipal Committee, or by the Participating Municipalities. Any amendment or change to these articles shall be approved by the Participating Municipalities, and shall take effect upon passage of appropriate municipal ordinances.

SECTION 8. COUNTERPARTS

This Agreement may be executed in multiple counterparts.

SECTION 9. EFFECTIVE DATE

The effective date of this agreement shall be upon enactment by ordinance of this agreement by the Participating Municipalities.

TOWNSHIP OF MANOR

Attest: _____
Secretary

By: _____
Chair, Board of Supervisors

TOWNSHIP OF PEQUEA

Attest: _____
Secretary

By: _____
Chair, Board of Supervisors

TOWNSHIP OF WEST HEMPFIELD

Attest: _____
Secretary

By: _____
Chair, Board of Supervisors

TOWNSHIP OF WEST LAMPETER

Attest: _____
Secretary

By: _____
Chair, Board of Supervisors

BOROUGH OF COLUMBIA

Attest: _____
Secretary

By: _____
President, Borough Council

BOROUGH OF EAST PETERSBURG

Attest: _____
Secretary

By: _____
President, Borough Council

BOROUGH OF MILLERSVILLE

Attest: _____
Secretary

By: _____
President, Borough Council

BOROUGH OF MOUNTVILLE

Attest: _____
Secretary

By: _____
President, Borough Council

BOROUGH OF STRASBURG

Attest: _____
Secretary

By: _____

APPROVED BY MUNICIPALITIES AS FOLLOWS:

| <u>Municipality</u> | <u>Date</u> | <u>Ordinance Number</u> |
|----------------------------|-------------------|-------------------------|
| Township of Manor | December 3, 2007 | Ordinance No. 8-2007 |
| Township of Pequea | December 19, 2007 | Ordinance No. 157-2007 |
| Township of West Hempfield | December 4, 2007 | Ordinance No. 7-07 |
| Township of West Lampeter | December 10, 2007 | Ordinance No. 201 |
| Borough of Columbia | December 10, 2007 | Ordinance No. 785 |
| Borough of East Petersburg | December 4, 2007 | Ordinance No. 248 |
| Borough of Millersville | December 15, 2007 | Ordinance No. 2007-9 |
| Borough of Mountville | December 10, 2007 | Ordinance No. 258 |
| Borough of Strasburg | December 11, 2007 | Ordinance No. 2007-4 |