

AN INTERGOVERNMENTAL COOPERATIVE IMPLEMENTATION AGREEMENT FOR HONEY BROOK TOWNSHIP AND HONEY BROOK BOROUGH

THIS INTERGOVERNMENTAL COOPERATIVE IMPLEMENTATION AGREEMENT is made this 2nd day of April, 2014, by and between the Township of Honey Brook and the Borough of Honey Brook, Chester County, Pennsylvania.

SECTION I: AUTHORIZATION

The following Intergovernmental Cooperative Implementation Agreement (“Agreement”) is a legally binding agreement authorized by, and conforms to, Article III and Article XI of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as reenacted and amended, 53 P.S. Section 10101 et seq., and Chapter 23, Subchapter A (relating to intergovernmental cooperation) of the General Local Government Code, 53 Pa. C.S. Section 2301 et seq.

SECTION II. PURPOSE

The purpose of this Intergovernmental Cooperative Implementation Agreement is as follows:

- A. To support the goals and action items as described and adopted in the Honey Brook Township and Borough Multi-Municipal Comprehensive Plan (“Comprehensive Plan”). These goals and action items are intended to guide and shape new growth, development, and resource conservation within the Borough and Township for the twenty year planning period and are incorporated here by reference.
- B. To establish a process for the two municipalities to follow in implementing the Comprehensive Plan through ordinance amendments, review of developments of regional significance and impact, review of other developments in close proximity, and Comprehensive Plan amendments; and
- C. To establish a process for the two municipalities when considering actions that may not be generally consistent with the Comprehensive Plan.

SECTION III. DEFINITIONS

- A. **Consistency** – That which exhibits agreement or correspondence between matters being compared which denotes reasonable, rational, or similar, connection or relationship.
- B. **Development of Regional Significance and Impact** – Any land development that, because of its character, magnitude, or location will have substantial effect upon the health, safety, or welfare of citizens in Honey Brook Township or Honey Brook Borough. Examples include, but are not limited to, a solid waste landfill, a regional shopping center or mall, or other large commercial, industrial or institutional development of over 100,000 square feet interior building space, an indoor sports arena or stadium, or major overhead or underground utilities or pipelines and accessory structures.

- C. **General Consistency; Generally Consistent** - That which exhibits consistency. In its application within Honey Brook Township and/or Honey Brook Borough when considering subdivisions, land developments, zoning and/or subdivision and land development ordinance changes, or any other matter deemed to have regional impact, generally consistent shall be interpreted as that which conforms to the goals and action items stated in the Comprehensive Plan. Specifically, a proposed land use action shall be considered generally consistent with the Comprehensive Plan when the regulation, amendment, or action:
1. Furthers, or at least does not interfere with, the goals contained in the Comprehensive Plan; and
 2. Is compatible with the future land uses and densities and/or intensities contained in the Comprehensive Plan. Densities are not required to be identical to the ranges contained in the Comprehensive Plan, but the overall intent of the land use action should be compatible with the intent of the Comprehensive Plan; and
 3. Carries out or supports other specific action items recommended by the Comprehensive Plan.
- D. **Honey Brook Township and Borough Multi-Municipal Comprehensive Plan (Comprehensive Plan)** – The Honey Brook Township and Borough Multi-Municipal Comprehensive Plan, including all amendments and supplements thereto, and any new plan substituted therefore, as in force at the time of application under this Agreement.
- E. **Multi-Municipal Planning Committee** – A committee comprised of all actively-appointed representatives of the Honey Brook Township and Honey Brook Borough Planning Commissions.
- F. **Participating Members** – Participating members shall include the elected bodies of the Township of Honey Brook and the Borough of Honey Brook who have adopted this Agreement.
- G. **Pennsylvania Municipalities Planning Code (MPC)** – Act of 1968, P.L. 805 No. 247 as reenacted and amended.

SECTION IV: MUNICIPAL PLANNING COMMISSIONS

The participating members shall retain their own planning commissions. The authority and functions of each planning commission are modified by this Agreement only to the extent provided by Section VI herein.

SECTION V: MUNICIPAL ZONING HEARING BOARDS

The participating members shall retain their own Zoning Hearing Boards. The authority and functions of each Zoning Hearing Board are not modified by this Agreement.

SECTION VI: MULTI-MUNICIPAL PLANNING COMMITTEE

The purpose of the Multi-Municipal Planning Committee shall be to coordinate the discussion of matters of mutual interest specified in Sections IX, X, XI, and XII of this Agreement between the two participating members in a public meeting forum.

Meetings of this Committee shall be publicly advertised, and the cost of such notice shall be borne by the participating member which has requested the review by the other participating member. Committee members may raise issues and propose solutions to those issues. Any opinion or recommendation generated by this Committee to either participating member shall be advisory only.

SECTION VII: HONEY BROOK TOWNSHIP AND HONEY BROOK BOROUGH MULTI-MUNICIPAL COMPREHENSIVE PLAN

- A. **Plan Adoption:** The adopted Comprehensive Plan shall serve as the guide for future growth in the Township and Borough and each municipality's land use planning decisions shall be guided by the Comprehensive Plan and its goals and action items.
- B. **Plan Interpretation:** Both participating members agree to duly consider the opinions and recommendations made by each other and the Multi-Municipal Planning Committee on all matters pertaining to the interpretation of the Comprehensive Plan. Except as otherwise specifically provided in this Agreement, it is understood by each participating member that any opinion or recommendation rendered by the other participating member and the Multi-Municipal Planning Committee shall be advisory only.

SECTION VIII: MUNICIPAL ZONING

- A. **Municipal Zoning Ordinance and Map.** Each municipality shall retain and administer its own individual zoning ordinance (code) and zoning map. Subject to the requirements for review by a participating member as set forth in Section IX below, either municipality may revise its zoning map or amend its zoning ordinance.
- B. **Transfer of Development Rights.** Either or both municipalities may voluntarily choose to participate in a transfer of development rights (TDR) program with another municipality, or with each other, thereby allowing the transfer of development rights across municipal borders as permitted by the MPC. A separate Agreement for Intermunicipal Transfer of Development Rights may be established for the Township and Borough to form a multi-municipal TDR program.

SECTION IX: CONSISTENCY REVIEW PROCESS

- A. **Initial Consistency Efforts.** Each participating member agrees that the following relevant documents are generally consistent with the Honey Brook Township and Borough Multi-Municipal Comprehensive Plan:
 - 1. Honey Brook Township Subdivision and Land Development Ordinance
 - 2. Honey Brook Township List of Capital Improvements
 - 3. Honey Brook Borough Subdivision and Land Development Ordinance
 - 4. Honey Brook Borough Urban Revitalization Plan, which serves as the Borough's Capital Improvement Plan (CIP).Each participating member agrees to adopt its own Zoning Ordinance and/or Zoning Map to be generally consistent with the Comprehensive Plan within two (2) years of entering into this Agreement.
- B. **Future Amendments.** Except for routine matters of purely local concern, future proposed zoning text amendments, zoning map changes, subdivision and land development ordinance

amendments, or CIP amendments affecting a change in standards regulating use, residential density, non-residential intensity, or design standards such as parking, stormwater management, screening, or landscaping, shall be subject to a Plan Consistency review by both participating members. The participating member responsible for initiating a proposed ordinance, map, or CIP amendment or change shall send relevant materials to the other participating member for review and comment in compliance with the following process:

1. Submittal: Proposed ordinance, map, or CIP amendments affecting a change as described in the above paragraph shall be sent to the other participating member for review and comment.
 2. General Consistency Determination and Review: Following the receipt of a copy of the submission of any proposed ordinance, map, or CIP amendment from a participating member, the other participating member shall determine if the amendment is generally consistent with the Comprehensive Plan. Such a determination shall be made and delivered to the initiating member within sixty (60) days of receipt of the materials from the other participating member. If the participating member whose review was requested determines that the amendment is generally consistent, no further action by that participating member is needed.
 3. Municipal Adoption: Ordinance text amendments, zoning map amendments, or CIP amendments affecting a change as described in this section may be adopted by a participating member unless that member has been notified by the other participating member within the time period specified in Section IX.B.2 above that the proposal is not found to be generally consistent (as defined by Section III) with the stated goals and recommendations of the Comprehensive Plan, in which case the procedures set for under Section IX.C shall apply.
 4. Costs: The participating member responsible for initiating a proposed ordinance, map or CIP amendment shall be responsible to reimburse reasonable review fees incurred by the other member.
- C. **Procedure for Inconsistent Amendments**: Where a participating member, having received a copy of a submission of a proposed ordinance, map amendment, or CIP amendment and accompanying request for general consistency determination from the other participating member, has determined that the submission is not generally consistent with the Comprehensive Plan, it shall:
1. Notify the other participating member of its initial determination within sixty (60) days of receipt of materials;
 2. Schedule a Multi-Municipal Planning Committee meeting to discuss the proposal and its reasons for the findings of inconsistency. This Multi-Municipal Planning Committee meeting shall occur no later than sixty (60) days from the participating member's inconsistent amendment determination, be publicly advertised, and if the amendment is being proposed by an applicant other than the participating member responsible for approval of the proposal, the applicant shall be invited by that participating member to attend and participate in this meeting. The participating municipality responsible for scheduling the Multi-Municipal Planning Committee meeting shall promptly notify all members of this Committee of the meeting date, time, and location. At this meeting, the initial findings of inconsistency shall be discussed with respect to the Comprehensive Plan, and any changes to the proposal that would eliminate the inconsistency(ies) should be identified and discussed.

3. After the completion of the Multi-Municipal Planning Committee meeting, the participating member responsible for the initial determination of inconsistency may rescind its determination of inconsistency, or, if not rescinded, the participating member, or an applicant if applicable, initiating the Ordinance amendment proposal may:
 - a. Modify the proposed ordinance or map amendment to eliminate the inconsistency(ies) and resubmit the proposal under the procedure set forth in this Agreement;
 - b. Withdraw the proposal;
 - c. Initiate a request to amend the Comprehensive Plan in accordance with Section XII of this Agreement in order to establish general consistency; or
 - d. Submit a request for dispute resolution as provided for in Section XIII of this Agreement.
4. Participating members shall pay their own costs associated with Section IX.C including legal, engineering and other consulting fees except the advertising expense identified in Section VI.

SECTION X: REVIEW OF DEVELOPMENTS OF REGIONAL SIGNIFICANCE AND IMPACT

A. Determination of Developments of Regional Significance and Impact:

1. The participating member that receives a Land Development application pursuant to its Subdivision and Land Development Ordinance, or a conditional use, special exception, or variance application required in the context of a Land Development application for any Development of Regional Significance and Impact, shall determine at the time of accepting the application whether such development meets the definition in Section III of a Development of Regional Significance and Impact.
2. Upon determination that the submitted application is a Development of Regional Significance and Impact, such application shall be forwarded for review by the other participating member. In addition to normally required escrow funding or other funding agreement, as applicable, the municipality receiving the application shall also require submittal of additional funding to cover review by the other municipality pursuant to its financial requirements for similar applications. The participating member submitting the application for review to the other municipality shall be responsible to utilize such collected additional funds to reimburse reasonable review fees incurred by the other participating member.

B. Land Use Application Review Roles: In addition to processing the application consistent with the participating member's regulatory review procedures, the following review process shall be followed for Developments of Regional Significance and Impact:

1. It shall be the responsibility of the participating member that receives a proposed land use application for a Development of Regional Significance and Impact, to forward all materials received regarding the application for review and comment by the other participating member. The participating member shall forward such materials within ten (10) calendar days of accepting them as complete, to allow for the other participating member's review and comment within sixty (60) days from receipt of the materials.
2. The participating member that has accepted a proposed land use application for a Development of Regional Significance and Impact shall also schedule a meeting of the

Multi-Municipal Planning Committee for review and comment, to be publicly advertised, and occur not more than sixty (60) days from the date of acceptance of the application as complete. Upon scheduling, the participating member shall promptly notify all members of the Multi-Municipal Planning Committee of the scheduled meeting date, time, and location.

3. A review by the Multi-Municipal Planning Committee, or the other participating member, shall not exceed these time-frames unless an extension request has been granted by the participating member where the application is located, and by the applicant who submitted the Development proposal. (MPC Section 1104.b.2)
4. In reviewing Developments of Regional Significance and Impact, the Multi-Municipal Planning Committee, and the other participating member whose review has been requested, shall only consider the general consistency of the proposal as it relates to the guidelines for land use, residential density, or non-residential intensity, or design standards such as parking, stormwater management, screening, or landscaping, as set forth in the Comprehensive Plan.
5. Review comments of the Multi-Municipal Planning Committee and of the other participating member are advisory only and shall be directed to the Manager or Secretary of the participating member responsible for accepting the proposed Development application. Comments received shall be forwarded to the Board of Supervisors, Council, or Zoning Hearing Board, as applicable prior to their scheduled meeting. Such review comments shall also be retained by the participating municipality responsible for accepting the proposed Development application.
6. The absence of a response by the other participating member whose review has been requested by the participating municipality pursuant to this Section shall constitute neither an endorsement of nor opposition to the submitted plan, but shall be considered as "no comment," and the participating municipality that has accepted the application under its regulatory ordinances may proceed with review and potential approval.
7. The power to approve or reject a Development of Regional Significance and Impact shall be exercised only by the municipality where the property, for which the approval is sought, is located. (MPC Section 1104.b.2)

SECTION XI: REVIEW OF OTHER DEVELOPMENTS IN CLOSE PROXIMITY

- A. In addition to processing any subdivision or land development application, or a conditional use, special exception, or variance application required in the context of a preliminary subdivision or land development application, consistent with the affected participating member's review process, the following review process shall be followed for such land use application, located within 500 feet of either member's border with the other:
 1. It shall be the responsibility of the participating member that receives such an application to forward the plan of subdivision, or conditional use, special exception, or variance request, for review and comment by the other participating member. The participating member shall forward the plan within ten (10) calendar days of accepting it as complete. This will allow for the other participating member's review and comment to occur within sixty (60) days from receipt.
 2. Upon determination that the submitted application is located within 500 feet of either member's border, such application shall be forwarded for review by the other participating member. Where the submitted application requires multi-municipal review,

in addition to normally required escrow funding or other funding agreement, as applicable, the municipality receiving the application shall also require submittal of additional funding to cover review by the other municipality pursuant to its financial requirements for similar applications. The participating member submitting the application for review to the other municipality shall be responsible to utilize such collected additional funds to reimburse reasonable review fees incurred by the other participating member.

3. The participating member that has accepted the application/development for review shall also schedule a meeting of the Multi-Municipal Planning Committee, to be publicly advertised, and occur not more than sixty (60) days from the date of acceptance of the application. Upon scheduling, the participating member shall promptly notify all members of the Multi-Municipal Planning Committee of the scheduled meeting date, time, and location.
4. A review by the Multi-Municipal Planning Committee, or the participating member, shall not exceed these time-frames unless an extension request has been granted by the participating member where the application is located, and by the applicant who submitted the preliminary subdivision or land development plans, or conditional use, special exception, or variance request related to those plans. (MPC Section 1104.b.2)
5. In reviewing preliminary subdivision or land development plans, or conditional use, special exception, or variance requests related to those plans, the Multi-Municipal Planning Committee, and the other participating member whose review has been requested, shall only consider the general consistency of the proposal as it relates to the guidelines for land use, residential density, or non-residential intensity, or design standards such as parking, stormwater management, screening, or landscaping, as set forth in the Comprehensive Plan.
6. Review comments of the Multi-Municipal Planning Committee and of the other participating member whose review has been requested are advisory only and shall be directed to the Manager or Secretary of the participating member responsible for accepting the proposed Development application. Comments received shall be forwarded to the Board of Supervisors, Council, or Zoning Hearing Board, as applicable prior to their scheduled meeting. Such review comments shall also be retained by the participating municipality responsible for accepting the proposed Development application.
7. The absence of a response by the other participating member whose review has been requested pursuant to this Section shall constitute neither an endorsement of nor opposition to the submitted plan, but shall be considered as "no comment," and the municipality to which the proposed Development application has been submitted may proceed with review and potential approval.
8. The power to approve or reject any subdivision or land development plan, or a conditional use, special exception, or variance required in the context of any subdivision or land development plan, shall be exercised only by the municipality where the property, for which the approval is sought, is located.(MPC Section 1104.b.2)

SECTION XII: AMENDMENT OF THE MULTI-MUNICIPAL COMPREHENSIVE PLAN

It is the responsibility of the Township of Honey Brook and the Borough of Honey Brook to update, revise, and prepare amendments to the Comprehensive Plan, as well as redefining any designated growth area, future growth area, or resource protection area applicable to the Comprehensive Plan, consistent with the following:

- A. **Multi-Municipal Plan Review.** At a minimum, the participating municipalities individually or collaboratively, shall undertake a review of the Comprehensive Plan on a schedule pursuant to Article III of the MPC, and shall update the Comprehensive Plan as the result of such review may indicate.
- B. **Requests for Multi-Municipal Comprehensive Plan Amendment.** A request to amend the Comprehensive Plan may be made by one participating member to the other participating member at any time, consistent with the following:
 - 1. Requests for a Comprehensive Plan amendment shall include a summary of the change requested, and supporting rationale for the proposed change.
 - 2. A Multi-Municipal Planning Committee meeting shall be scheduled by the participating member initiating discussion, or consideration of, the Plan amendment to discuss the request. This Multi-Municipal Planning Committee meeting shall be publicly advertised and held within sixty (60) days of the participating member's request of the other participating member to amend the Comprehensive Plan. The participating municipality responsible for scheduling the Multi-Municipal Planning Committee meeting shall promptly notify all members of this Committee of the meeting date, time, and location. At this meeting, the Multi-Municipal Planning Committee may assess the impacts to the adopted Plan created by the proposed amendment and identify any changes to the amendment that would eliminate adverse impacts to either or both participating municipalities.
 - 3. The participating member requesting the amendment shall pay all reasonable expenses for the other participating member's review by the Solicitor, Engineer and other consultants together with the expense for advertising, conducting a public hearing and preparation of the amendment to the Comprehensive Plan if deemed appropriate by the other participating member.
 - 4. If the amendment is not deemed as appropriate then the participating member may submit a request for dispute resolution as provided for in Section XIII of this Agreement.
- C. Adoption of proposed updates or amendments to the Comprehensive Plan shall be in accordance with the applicable provisions of the MPC.

SECTION XIII: DISPUTE RESOLUTION

- A. Any dispute between the two participating members over implementation of this Agreement, including but not limited to matters such as consistency review, development of regional significance or impact, other developments of close proximity, and Plan amendments, may be resolved as follows:
 - 1. The participating member responsible for the action requiring dispute resolution shall schedule a meeting of the Multi-Municipal Planning Committee for review and comment, to be publicly advertised, and to occur within sixty (60) days of the dispute occurrence.

- Upon scheduling, the participating member shall promptly notify all members of the Multi-Municipal Planning Committee of the scheduled meeting date, time, and location.
2. At this meeting, the Multi-Municipal Planning Committee shall discuss and negotiate in good faith in attempt to achieve a consensus approach to amicable resolution of the dispute and so recommend to the respective governing bodies.
 3. Following the receipt of comment from the Multi-Municipal Planning Committee or their failure to comment by the deadline, the governing bodies of the participating members shall attempt to resolve the dispute in an amicable manner, including potential mutual amendment of this agreement. The participating members shall bear their own costs for legal, engineering and consulting fees.
 4. If the dispute cannot be resolved via the preceding means, the governing bodies of the participating members shall attempt to resolve the dispute in an amicable manner by mediation utilizing a recognized mediation agent, including the County as prescribed in MPC Section 1104(d), as the parties may agree. Unless otherwise agreed, the cost for the mediator shall be shared equally by the participating members. The participating members shall bear their own costs for legal, engineering and consulting fees.
- B. If a dispute cannot be resolved, the participating members shall determine the final course of action, including possible termination of this Agreement as described in Section XVII.

SECTION XIV: ANNUAL REPORT

Each participating member is responsible for preparing and delivering to the other participating member an annual report concerning its Comprehensive Plan implementation activities carried out during the previous year per the requirements of Section 1104(b)(4) of the MPC. Such report of the previous year's activities shall generally be submitted to the other participating member by April 1st of each year.

SECTION XV: FINANCES

- A. Each participating member shall be responsible for its costs and expenses incurred in finalizing this Agreement and its adoption, and unless otherwise stated herein, in carrying out the transactions contemplated by this Agreement to be performed on the part of each participating municipality.
- B. Within ninety (90) days after this Agreement becomes effective, each participating member shall amend its Subdivision and Land Development Ordinance to provide for the collection of a fee for the review by the other municipality of Developments of Regional Significance and Impact, and other developments in close proximity.

SECTION XVI: EFFECTIVE DATE

This Agreement shall become effective immediately upon the signature of all participating members.

SECTION XVII: TERM

Each municipality shall have the right to terminate this agreement with two years notice to the other municipality. The participating municipalities recognize that termination will render some of the benefits of the multi-municipal plan ineffective.

SECTION XVIII: ENDORSEMENTS

The undersigned parties approve and agree to the conditions of this Intergovernmental Cooperative Implementation Agreement:

BOROUGH COUNCIL OF
HONEY BROOK BOROUGH,
CHESTER COUNTY, PENNSYLVANIA

By: *Posica Curtis*
President of Borough Council

By: *[Signature]*
Mayor

Attest: *[Signature]*
Secretary

BOARD OF SUPERVISORS OF
HONEY BROOK TOWNSHIP,
CHESTER COUNTY, PENNSYLVANIA

By: *[Signature]*
Chairman

Attest: *[Signature]*
Secretary