

2009

**INTERMUNICIPAL AGREEMENT**

AGREEMENT, made this 23<sup>rd</sup> day of June, 2009, by and among:

**TOWNSHIP OF RUSH**, 104 Mahanoy Avenue, Tamaqua, Pennsylvania 18252  
**TOWNSHIP OF SCHUYLKILL**, 75 Walnut Street, Mary-D, Pennsylvania 17952  
**BOROUGH OF TAMAQUA**, 320 East Broad Street, Tamaqua, Pennsylvania 18252  
**TOWNSHIP OF WALKER**, Municipal Building, Tamaqua, Pennsylvania 18252

Hereafter collectively referred to as "Participating Municipalities";

WITNESSETH:

WHEREAS, it is believed by the participating municipalities that the citizens within Schuylkill County and more specifically the respective municipalities will benefit by a Joint Municipal Subdivision and Land Development Ordinance, Comprehensive Plan and Zoning Ordinance designed to protect, promote and create conditions favorable to the health, safety, convenience of the general welfare of the citizens of the participating municipalities; and,

WHEREAS, Article VIII-A of the Pennsylvania Municipalities Planning Code (53 P.S. § 10801-A-10821-A) permits Municipalities to cooperate with one or more other municipalities to enact, amend and repeal Joint Municipal Zoning Ordinances in order to implement Joint Municipal Comprehensive Plans and to accomplish any purposes under the Pennsylvania Municipalities Planning Code; and,

WHEREAS, the Eastern Schuylkill Planning Commission has prepared a Joint Municipal Zoning Ordinance referred to Section 807-A in the Pennsylvania Municipalities Planning Code; and,

WHEREAS, Article III of the Pennsylvania Municipalities Planning Code (53 P.S. § 10301-10307) permits Municipalities to cooperate with other municipalities to prepare a Comprehensive Plan; and,

WHEREAS, Article XI of the Pennsylvania Municipalities Planning Code (53 P.S. § 11101 to 11107) provides that governing bodies of municipalities may enter into Intergovernmental Agreements relating to Intergovernmental cooperation to provide for Joint Comprehensive Plan, Subdivision and Zoning Ordinances within the articles of the Municipal Planning Code; and,

WHEREAS, the Eastern Schuylkill Planning Commission has prepared a Joint Comprehensive Plan, Joint Subdivision and Land Development Ordinance and Joint Municipal Zoning Ordinance pursuant to the related sections of the Pennsylvania Municipalities Planning Code.

NOW THEREFORE, the parties hereto, intending to be legally bound hereby and for any

NOW THEREFORE, the parties hereto, intending to be legally bound hereby and for any consideration for the mutual covenants contained, covenant and agrees that the following terms and conditions shall govern the organization of the Eastern Schuylkill Planning Commission:

1. Incorporation of Recitals. The above recitals are incorporated herein as fully set forth.

2. Eastern Schuylkill Planning Commission.

a. Commission. The commission has the primary responsibility entirely to:

i. prepare a Joint Municipal Zoning Ordinance for the participating municipalities.

ii. Review Curative Amendments pursuant to Section 810-A of the Pennsylvania Municipalities Planning Code.

iii. Review Joint Municipal Curative Amendments pursuant to Section 812-A of the Pennsylvania Municipalities Planning Code.

iv. Prepare Comprehensive Plan.

v. Prepare Subdivision Land Development Ordinance.

b. Members. Commission shall consist a total of 4 members all of them shall serve without pay. Members shall consist of, shall act, conduct business and carry out or exercise your delegated powers, duties, responsibilities and authority through a Joint Board of Representatives appointed by the participating municipalities.

i. Each of the participating members shall appoint one member to the commission. The appointee must be a resident of the appointed municipality as preferred that the appointee be an elected official.

c. Voting. Each member shall have 1 vote, a majority of the representatives on the commission shall constitute a Quorum. The commissioner shall act on the majority votes of the members present at the meetings at which a Quorum of the members in attendance.

d. Terms. Each member shall be appointed for a 3 year term with terms beginning on January 1<sup>st</sup> and expiring on December 31<sup>st</sup>. In order to create terms that expire on alternating years for the first term of this Agreement only members terms shall end as follows:

i. Borough of Tamaqua -	December 2009
Township of Schuylkill -	December 2010
Township of Walker -	December 2011
Township of Rush -	December 2012

ii. Term shall expire every 3 years following the expiration of the first term.

e. Adoption of Plans and Ordinances. Within 120 days after the approval of this Agreement by each municipality, each municipality agrees to enact the Joint Comprehensive Plan, Joint Subdivision and Land Development Ordinance and Zoning Ordinance including the official Zoning Map.

4. Enactment of and Amendments to Comprehensive Plan.

a. The procedural requirements of section 302 of the Pennsylvania Municipalities Planning Code shall be applicable to the enactment of and amendments to the joint municipal comprehensive plan.

b. Each municipality party to a joint municipal comprehensive plan shall adopt the plan and it shall not become effective until it has been properly enacted by all the participating municipalities.

c. Amendments to the joint municipal comprehensive plan shall be reviewed by the Eastern Schuylkill Planning Commission. The municipality opposing the plan must prepare the amendment, incur all costs relating thereto and submit said amendment for review to the Eastern Schuylkill Planning Commission. If an amendment does not substantially effect the neighboring municipalities, such approval shall not be unreasonably withheld. Approval by the Eastern Schuylkill Planning Commission must be made within sixty (60) days. If the Eastern Schuylkill Planning Commission provides no comment or takes no action, the amendment shall be deemed approved.

d. No municipality may withdraw from or repeal the joint municipal comprehensive plan during the first three years following the date of its enactment. If, at any time after the end of the second year following the enactment of a joint municipal comprehensive plan, a municipality wishes to repeal and withdraw from a joint municipal comprehensive plan, it shall adopt the plan, which shall be effective no sooner than one year after its enactment, repealing the joint municipal comprehensive plan and shall provide immediately and concurrently one year's advanced written notice of its repeal and withdrawal to the governing bodies of all municipalities party to the joint municipal comprehensive plan. The repeal and withdrawal may become effective within less than one year with the unanimous approval, by ordinance, of the governing bodies of all municipalities party to the joint municipal comprehensive plan.

5. Enactment of and Amendments to Subdivision and Land Development Ordinance.

a. the procedural requirements of the Municipalities Planning Code are set forth in sections 504, 505 and 506 shall be applicable to the enactment of and amendments to the joint municipal subdivision and land development plan.

b. Each municipality party to a joint municipal zoning ordinance shall enact the ordinance and it shall not become effective until it has been properly enacted by all the participating municipalities.

c. Amendments to the joint municipal subdivision and land development plan

shall be reviewed by the Eastern Schuylkill Planning Commission. The municipality opposing the plan must prepare the amendment, incur all costs relating thereto and submit said amendment for review to the Eastern Schuylkill Planning Commission. If an amendment does not substantially effect the neighboring municipalities, such approval shall not be unreasonably withheld. Approval by the Eastern Schuylkill Planning Commission must be made within sixty (60) days. If the Eastern Schuylkill Planning Commission provides no comment or takes no action, the amendment shall be deemed approved.

d. No municipality may withdraw from or repeal the joint municipal subdivision and land development plan during the first three years following the date of its enactment. If, at any time after the end of the second year following the enactment of a joint municipal subdivision and land development plan, a municipality wishes to repeal and withdraw from a joint municipal subdivision and land development plan, it shall adopt the plan, which shall be effective no sooner than one year after its enactment, repealing the joint municipal subdivision and land development plan and shall provide immediately and concurrently one year's advanced written notice of its repeal and withdrawal to the governing bodies of all municipalities party to the joint municipal subdivision and land development plan. The repeal and withdrawal may become effective within less than one year with the unanimous approval, by ordinance, of the governing bodies of all municipalities party to the joint municipal subdivision and land development plan.

#### 6. Enactment of Zoning Ordinance.

a. The procedural requirements of section 608 of the Pennsylvania Municipalities Planning Code shall be applicable to the enactment of a joint municipal zoning ordinance.

b. Each municipality party to a joint municipal zoning ordinance shall enact the ordinance and it shall not become effective until it has been properly enacted by all the participating municipalities.

c. No municipality may withdraw from or repeal a joint municipal zoning ordinance during the first three years following the date of its enactment. If, at any time after the end of the second year following the enactment of a joint municipal zoning ordinance, a municipality wishes to repeal and withdraw from a joint municipal zoning ordinance, it shall enact an ordinance, which shall be effective no sooner than one year after its enactment, repealing the joint municipal zoning ordinance and shall provide immediately and concurrently one year's advanced written notice of its repeal and withdrawal to the governing bodies of all municipalities party to the joint municipal zoning ordinance. The repeal and withdrawal may become effective within less than one year with the unanimous approval, by ordinance, of the governing bodies of all municipalities party to the joint municipal zoning ordinance.

d. Each municipality shall employ its own Zoning Officer pursuant to Section 614 of the Pennsylvania Municipalities Planning Code. Each municipality shall create a Zoning Hearing Board for having jurisdiction only for zoning matters arising in each municipality pursuant to Section 901 et seq of the Pennsylvania Municipalities Planning Code.

7. Enactment of Zoning Ordinance Amendments.

a. The procedural requirements for amendments to a joint municipal zoning ordinance shall be as required by section 609 of the Pennsylvania Municipalities Planning Code, except that all proposed amendments shall also be submitted to the joint municipal planning commission for review at least 30 days prior to the hearing on such proposed amendments.

b. The governing bodies of the other participating municipalities shall submit their comments, including a specific recommendation to adopt or not to adopt the proposed amendment, to the governing body of the municipality within which the amendment is proposed no later than the date of the public hearing. Failure to provide comments shall be construed as a recommendation to adopt the proposed amendments.

c. No amendments to the joint municipal zoning ordinance shall be effective unless all of the participating municipalities approve the amendment.

8. Procedure for Curative Amendments.

Curative amendments shall be filed in accordance with the requirements of section 609.1 of the Pennsylvania Municipalities Planning Code with the municipality within which the landowner's property is located: Provided, however, that the governing body before which the curative amendment is brought shall not have the power to adopt any amendment to the joint municipal zoning ordinance without the approval of the other municipalities participating in the joint municipal zoning ordinance. The challenge shall be directed to the validity of the joint municipal zoning ordinances as it applies to the entire area of its jurisdiction.

9. Area of Jurisdiction for Challenges.

In any challenge to the validity of the joint municipal zoning ordinance, the court shall consider the validity of the ordinance as it applies to the entire area of its jurisdiction as enacted and shall not limit consideration to any single constituent municipality.

10. Procedure for Joint Municipal Curative Amendments.

a. The governing bodies of all the participating municipalities may declare the joint municipal zoning ordinance or portions thereof substantially invalid and prepare a municipal curative amendment pursuant to section 609.2 of the Pennsylvania Municipalities Planning Code.

b. The provisions of section 609.2(4) of the Pennsylvania Municipalities Planning Code shall apply to all municipalities participating in the joint municipal zoning ordinance.

c.(1) In the case of a joint municipal curative amendment involving two or three municipalities, the municipalities shall have nine months from the date of declaration of partial or total invalidity to enact a curative amendment.

(2) Subject to the limitation contained in clause (3), where there are more than

three municipality parties, the nine-month period shall be extended one additional month for each municipality in excess of three that is a party to the joint municipal zoning ordinance.

(3) Notwithstanding the additional periods provided for in clause (2), a curative amendment shall be enacted by the parties to a joint municipal zoning ordinance not later than one year from the date of declaration of partial or total invalidity.

11. Publication, Advertisement and Availability of Ordinances. The content of public notices and the procedures for the advertisement and enactment of joint municipal zoning ordinances and amendments shall be regulated by section 610 of the Pennsylvania Municipalities Planning Code.

12. Registration of Nonconforming Uses. The registration of nonconforming uses shall be governed by section 613 of the Pennsylvania Municipalities Planning Code.

13. Administration.

a. The governing body of each municipality adopting the joint municipal zoning ordinance shall establish its own zoning hearing board pursuant to the authority of section 904 of the Pennsylvania Municipalities Planning Code.

b. The governing body of each municipality shall appoint its own zoning officer to administer the ordinance pursuant to section 604 of the Pennsylvania Municipalities Planning Code.

14. Zoning Appeals. All rights and procedures provided by Articles IX and X-A of the Pennsylvania Municipalities Planning Code shall govern zoning appeals with each municipal body providing its own zoning hearing board.

15. Enforcement Penalties. Penalties for violation of a joint municipal zoning ordinance shall be as specified in section 617.1 of the Pennsylvania Municipalities Planning Code.

16. Enforcement Remedies.

a. Enforcement remedies shall be as specified in section 617 of the Pennsylvania Municipalities Planning Code.


b. In addition, the provisions of a joint municipal zoning ordinance shall be binding on the participating municipalities and may be enforced by appropriate remedy by any one or more of the municipalities against the other municipality party thereto.

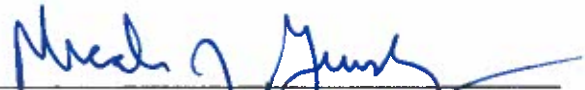
17. Finances.

a. The governing body of a participating municipality may appropriate and receive funds for a joint municipal zoning ordinance in the same manner as authorized for a municipal zoning ordinance by section 617.2 of the Pennsylvania Municipalities Planning Code.

b. Each participating municipality shall be responsible for financing the costs for administration and enforcement, including the financial responsibilities for amendments and defending legal challenges to the ordinance raised or arising out of that participating municipality.

**BOROUGH OF TAMAQUA**

  
Georgia Depos-DeWire, Secretary/Treasurer

  
By: Micah J. Gursky, President


**TOWNSHIP OF SCHUYLKILL**

  
Mary E. Bubel, Secretary

  
BY: Joseph Borah, Chairman

**TOWNSHIP OF WALKER**

  
Suzanne Borzak, Secretary

  
BY: David Price, Chairman

**TOWNSHIP OF RUSH**

  
Terri Conville, Secretary

  
BY: William Sanchez, Chairman *Vice CHAIRMAN*

The Eastern Schuylkill Planning Region  
Joint SubDivision and Land Development Ordinance

ORDINANCE ENACTMENT AND EFFECTIVE DATE

This Ordinance shall become effective ten (10) days after enactment by all participants..

Duly enacted by the Board Of Supervisors of the Township Of Schuylkill, Schuylkill County,  
Pennsylvania, this 23 day of June, 2009 in lawful session duly assembled.

TOWNSHIP OF SCHUYLKILL

BY: Joseph Boram  
CHAIRMAN

BY: Maureen E Venech  
VICE-CHAIRMAN

BY: Linda DeCandia  
MEMBER

Attest: Mary E Bubel  
Secretary/Treasurer



This Ordinance shall become effective ten (10) days after enactment.

Duly enacted by the Board Of Supervisors of the Township Of Schuylkill, Schuylkill County, Pennsylvania, this 5th day of August, 2009 in lawful session duly assembled.

TOWNSHIP OF SCHUYLKILL

BY: Joe Bolan  
CHAIRMAN

BY: Maurice E. Tanek  
VICE-CHAIRMAN

BY: Linda I. Lendis  
MEMBER

Attest: Mary E. Bubel  
Secretary/Treasurer

The Eastern Schuylkill Planning Region Joint Zoning Ordinance

ORDINANCE ENACTMENT AND EFFECTIVE DATE

**MICHAEL S. GREEK**  
Attorney at Law  
42 East Patterson Street  
P.O. Box 19  
Lansford, Pennsylvania 18232  
570-645-2200 fax 570-645-2202

August 14, 2009

Schuylkill Township  
Municipal Building  
P.O. Box 405  
Mary-D, PA 17952

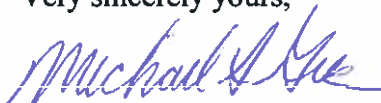
***RE: Intermunicipal Agreement***  
***Our File No 8000-2***

Dear Supervisors:

Enclosed please find a fully executed Intergovernmental Agreement. This Agreement was also attached as an Exhibit to the Ordinance. Kindly ensure that this is placed as an Exhibit to the Ordinance and maintained with the official ordinance book. Also, kindly insert the date of June 23, 2009 on the front of the adopted Ordinance.

Thank you for your cooperation in this matter.

Very sincerely yours,



Michael S. Greek

MSG/mln

Enclosure