

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 549

(Duly Adopted November 14, 2018)

AN ORDINANCE AUTHORIZING THE BOROUGH OF ALBURTIS TO ENTER INTO AN INTERGOVERNMENTAL COOPERATION AGREEMENT WITH THE BOROUGHES OF EMMAUS AND MACUNGIE AND THE TOWNSHIPS OF LOWER MACUNGIE, LOWER MILFORD, AND UPPER MILFORD TO IMPLEMENT THE SOUTHWESTERN LEHIGH COUNTY COMPREHENSIVE PLAN (OCTOBER 2017), INCLUDING PROVISIONS RELATING TO PURPOSE, POWERS AND SCOPE OF AUTHORITY, SOUTHWEST LEHIGH STEERING COMMITTEE, ADOPTION OF CONFORMING ORDINANCES, GENERAL CONSISTENCY, DEVELOPMENTS OF REGIONAL SIGNIFICANCE AND IMPACT, IMPLEMENTATION ROLES AND RESPONSIBILITIES, ANNUAL REPORTS, AMENDMENT AND REVIEW OF THE PLAN, DISPUTE RESOLUTION, EFFECTIVE DATE, AND TERMINATION.

WHEREAS the Boroughs of Emmaus, Macungie, and Alburtis and the Townships of Lower Macungie, Lower Milford, and Upper Milford (the “**Participants**”) have prepared and adopted a multi-municipal comprehensive plan (Southwestern Lehigh County Comprehensive Plan — October 2017) that satisfies the requirements of the Pennsylvania Municipalities Planning Code, 53 PA. STAT. ANN. § 10101 *et seq.* The plan was adopted by the Borough of Alburtis by Resolution 2017-8 on December 27, 2017; and

WHEREAS the Borough of Alburtis approved an agreement among the Participants to implement the plan by Ordinance 544 (adopted December 27, 2017). However, that agreement ultimately was not approved by all of the Participants and so never took effect; and

WHEREAS the Participants have proposed a revised agreement that satisfies all parties’ concerns, and the Borough of Alburtis desires to implement the multi-municipal

comprehensive plan with the other Participants under the terms and conditions set forth in the Agreement attached to this Ordinance as **Exhibit A** (the “**Agreement**”); and

WHEREAS intergovernmental cooperation between the Participants for this purpose is authorized under 53 PA. CONS. STAT. §§ 2301-2316 and 53 PA. STAT. ANN. §§ 11102, 11104;

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Albury, Lehigh County, Pennsylvania, as follows:

SECTION 1. Section 6-307 of the Albury Codified Ordinances (relating to Intergovernmental Cooperation—Multi-Municipal Comprehensive Planning—Intergovernmental Cooperation Agreement to Implement 2017 Multi-Municipal Comprehensive Plan) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 6-307 Intergovernmental Cooperation Agreement to Implement 2017 Multi-Municipal Comprehensive Plan.

The Borough of Albury shall enter into an Agreement with the Boroughs of Emmaus and Macungie and the Townships of Lower Macungie, Lower Milford, and Upper Milford in the form attached to Ordinance ~~544~~ 549 as **Exhibit A**, which is incorporated into this Article by reference, *provided that* the governing bodies of the other participating municipalities shall also approve the execution of the Agreement and adopt the multi-municipal comprehensive plan in the form approved by the Borough of Albury. The President (or Vice President) of Borough Council is hereby authorized and directed to execute the Agreement on behalf on the Borough upon the approval of the Agreement and multi-municipal comprehensive plan by all of the participating municipalities.

SECTION 2. The attached **Exhibit A** is incorporated into this Ordinance by reference.

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Alburdis, this 14th day of November, 2018, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURDIS

Ronald J. DeIaco, President

Attest:

Sharon Trexler, Borough Manager

AND NOW, this 14th day of November, 2018, the above Ordinance is hereby APPROVED.

Kathleen Palmer, Mayor

EXHIBIT A

**INTERGOVERNMENTAL COOPERATION AGREEMENT FOR
IMPLEMENTING A MULTI-MUNICIPAL COMPREHENSIVE PLAN
FOR MEMBER MUNICIPALITIES IN SOUTHWEST LEHIGH COUNTY,
PENNSYLVANIA CONSISTING OF THE TOWNSHIPS OF LOWER
MACUNGIE, LOWER MILFORD AND UPPER MILFORD, AND THE
BOROUGH OF ALBURTIS, EMMAUS AND MACUNGIE**

This Intergovernmental Cooperation Agreement (hereafter referred to as Agreement), dated this _____ day of _____, 2018, for implementing the multi-municipal comprehensive plan titled *Plan Southwest Lehigh* (hereinafter referred to as the *Plan*) is made by and among Lower Macungie Township, Lower Milford Township, Upper Milford Township, Alburdis Borough, Emmaus Borough, and Macungie Borough (hereinafter referred to collectively as Municipalities and individually as Municipality).

BACKGROUND: The Municipalities entered into an agreement with the Lehigh Valley Planning Commission to assist with the development of an updated multi-municipal comprehensive plan; having previously adopted a multi-municipal comprehensive plan in 2005. The updated *Plan* has been adopted as the Comprehensive Plan for each Municipality; copies of each Municipality's resolution of adoption are attached as Exhibit A. The Municipalities are now desirous of establishing the framework for implementing *Plan Southwest Lehigh*.

SECTION 1: AUTHORITY

Article XI of the Pennsylvania Municipalities Planning Code (hereinafter referred to as MPC) enables governing bodies of municipalities to enter into intergovernmental cooperation implementation agreements to implement comprehensive plans. The Intergovernmental Cooperation Law enables municipalities to jointly cooperate in the performance of their respective government functions, powers, or responsibilities pursuant to a written agreement.

SECTION 2: PURPOSE

As set forth in the *Plan*, the purpose of this Agreement is:

- A. To provide for implementation of the *Plan* pursuant to MPC Article XI and to afford the Municipalities the benefits and opportunities available to participants in a multi-municipal plan under the provisions of the MPC.
- B. To facilitate the categories of land use as recommended by the *Plan*.
- C. To provide for the sharing of those land uses identified in the *Plan* among the municipalities.
- D. To protect and maintain the separate identity of the Municipalities.

SECTION 3: POWERS AND SCOPE OF AUTHORITY

This Agreement provides a framework for the Municipalities to cooperatively implement the *Plan* in accordance with the MPC and the terms of this Agreement, including specific powers and responsibilities hereinafter set forth, and to do all acts necessary or desirable within the scope of each Municipality's reasonable resources to carry out the purposes of this Agreement.

The Municipalities understand and agree that the implementation of the *Plan* and the achievement of general consistency between each Municipality's land use ordinances and the *Plan* must be accomplished in order to enable the Municipalities to take full advantage of the benefits and opportunities of the multi-municipal comprehensive planning. Each Municipality understands and agrees that it shall be principally responsible to achieve and maintain general consistency between its land use ordinances and the *Plan*.

The *Plan* shall be deemed to be incorporated into this Agreement.

SECTION 4: SOUTHWEST LEHIGH STEERING COMMITTEE

The *Plan* contemplates the establishment of a Committee to monitor, on a voluntary basis, land development plans and uses of regional impact.

- A. By this Agreement, the Municipalities hereby form a commission to be known as the Southwest Lehigh Steering Committee (hereinafter referred to as SWLSC).
- B. Members of the SWLSC shall include one representative and one alternate to be appointed annually by each Municipality. It is recommended that the representatives be selected from among the Municipalities' staff, but may include elected or appointed officials at the discretion of the municipality.
- C. The SWLSC shall conduct public meetings and be subject to the Sunshine Act (65 Pa.C.S. §701 et seq.) and the Open Records Law (65 Pa.C.S. §66.1 et seq.) SWLSC shall meet at least semiannually.
- D. Each municipality shall assume responsibility for hosting meetings of the SWLSC on a rotating basis each year.

SECTION 5: ADOPTION OF CONFORMING ORDINANCES

Following the adoption of the *Plan* and any subsequent amendment by all the Municipalities, each Municipality will review and amend, within two (2) years of adoption, its zoning and subdivision ordinances so as to be generally consistent with the *Plan* or any subsequent amendment. Amended ordinances shall provide for the sharing of uses among municipalities, in accordance with the Pennsylvania Municipalities Planning Code. Any use sharing beyond what is identified within the *Plan* must undergo an amendment to the *Plan* and this Agreement before a Municipality may make use changes. Any zoning amendment adopted by a Municipality shall be generally consistent with the *Plan*.

SECTION 6: GENERAL CONSISTENCY

Prior to a Municipality submitting their draft ordinance amendments to the Lehigh Valley Planning Commission for review and comment, the draft ordinance amendments shall be submitted to the SWLSC for review and comment upon general consistency with the *Plan*. The SWLSC shall be guided by the definitions of “general consistency” and “consistency” as set forth in the MPC, as amended from time to time. The Municipality shall review and consider the comments of SWLSC, but is not bound by those comments, and shall ultimately make its own determination if generally consistent with the Plan, subject to the provisions of Section 11.

Each municipality shall bear its own costs with respect to preparation and review of ordinance amendments under this Section. In addition, if amending the Comprehensive Plan, the municipality proposing specific amendments shall bear the entire cost with respect to any consulting, legal, and advertising fees associated with making the change.

SECTION 7: DEVELOPMENTS OF REGIONAL SIGNIFICANCE AND IMPACT

Upon a Municipality receiving an application, including sketch plans, for a Development of Regional Significance and Impact (hereinafter referred to as DRI) as defined by the *Plan*, the Municipality shall provide a copy of the application and supporting materials to SWLSC for comment. Copies of the comments provided by the SWLSC to the Municipality shall be distributed by the Municipality at their cost, to all member Municipalities.

In addition to DRI applications, all applications for a development which lies within 500 feet of the boundary of a neighboring member municipality, shall submit notification to that neighboring member municipality within ten (10) days of receipt of the application. Notification shall include a copy of the development application.

SECTION 8: IMPLEMENTATION ROLES AND RESPONSIBILITIES

The Municipalities will generally assume the responsibility and role of implementing the recommendations contained in the *Plan* and each Municipality shall make sincere, reasonable efforts within its capabilities, schedules, budgets, and resources.

SECTION 9: ANNUAL REPORTS

By April 1 of each year following execution of this agreement, each Municipality shall prepare and submit a report to the SWLSC, as well as the LVPC. The report shall address activity from the previous year pursuant to this Agreement and an action plan outlining implementation of the *Plan*.

Upon receipt of the Municipalities’ reports, the SWLSC shall review and compile a report outlining the general status of the *Plan* and making any necessary recommendations of action to be taken in the current or following year. The report of the SWLSC shall be distributed to all member Municipalities. Such reports shall include summaries of public infrastructure needs in

growth areas and progress toward meeting those needs through capital improvement plans and implementing actions and reports on development applications and dispositions for residential, commercial and industrial development in each participating municipality for the purposes of evaluating the extent of provision for all categories of use and housing for all income levels within the region of the plan

SECTION 10: AMENDMENT AND REVIEW OF THE PLAN

The *Plan* may be amended by the formal approval of all Municipalities in accordance with the requirements of the MPC. A proposed amendment to the *Plan* shall be submitted to the SWLSC who shall render its recommendation with respect to a proposed amendment to the *Plan* in writing and provide a copy thereof to each Municipality.

The *Plan* shall be reviewed at least every ten years after plan adoption in accordance with the procedures and requirements of the MPC. Each Municipality shall submit their comments to the SWLSC who will compile a report and recommendation whether the *Plan* should be amended, a comprehensive update undertaken or develop a new comprehensive plan.

SECTION 11: DISPUTE RESOLUTION

Any dispute resulting from and/or issue arising as a result of this Implementation Agreement, or the interpretation of the *Plan* and/or the consistency of implementing plans and ordinances with the *Plan*, shall be resolved as follows: The disputing Municipalities shall agree to discuss and negotiate in good faith in an attempt to resolve the dispute amicably and informally. This Agreement does not restrict or limit the Municipalities from exercising any other legal causes of action the disputing Municipalities may have in relation to this Agreement and the disputes that may arise in relation thereto, in accordance with 53 Pa. C.S.A. 2315.

SECTION 12: EXECUTION, EFFECTIVE DATE AND TERMINATION

- A. To enter into this Agreement and commence implementation of the Comprehensive Plan, each governing body of a Municipality shall adopt an ordinance approving this Agreement.
- B. This Agreement shall become effective on the first day of the calendar month immediately following adoption by all the Municipalities of ordinances approving this Agreement.
- C. Any Municipality shall have the right to terminate its participation in this Agreement by adoption of an ordinance terminating such Municipality's participation in the Agreement or the *Plan*. Should a Municipality elect to terminate its participation, they shall provide one year's written notice thereof to other Participants.

IN WITNESS WHEREOF, the Municipalities, intending to be legally bound hereby, have caused this Intergovernmental Cooperation Agreement to be subscribed, as of the dates set forth under the duly authorized signature of each Municipality.

ATTEST:

BOROUGH OF ALBURTIS

Name and Title (Print)

Signature Date

BOROUGH OF EMMAUS

Name and Title (Print)

Signature Date

BOROUGH OF MACUNGIE

Name and Title (Print)

Signature Date

LOWER MACUNGIE TOWNSHIP

Name and Title (Print)

Signature Date

LOWER MILFORD TOWNSHIP

Name and Title (Print)

Signature Date

UPPER MILFORD TOWNSHIP

Name and Title (Print)

Signature Date