

ORDINANCE NO. 04-2018

**AN ORDINANCE OF THE COUNTY OF BERKS, PENNSYLVANIA, AMENDING
ORDINANCE NO. 01-2018; APPROVING AN AMENDMENT TO THE MT. PENN
PRESERVE PARTNERSHIP COUNCIL OF GOVERNMENTS (MP3 COG) ARTICLES
OF AGREEMENT; AND FURTHER AUTHORIZES THE BERKS COUNTY BOARD OF
COMMISSIONERS, OR ANY MEMBER THEREOF, TO EXECUTE THE AMENDED
ARTICLES OF AGREEMENT.**

WHEREAS, the Board of Commissioners of the County of Berks has previously adopted Ordinance No. 01-2018 approving creation of the Mt. Penn Preserve Partnership Council of Governments (the “MP3 COG”) and execution of the Articles of Agreement (“Agreement”); and

WHEREAS, the Government Members which previously adopted the form of Agreement for the MP3 COG have proposed amending certain terms of that Agreement and to adopt the amended form of the Agreement in its entirety; and

WHEREAS, the Board of Commissioners of the County of Berks desire to amend the Agreement and adopt the form of Agreement as amended.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Commissioners of the County of Berks, Pennsylvania as follows:

1. The Board of Commissioners of the County of Berks (“Board”) hereby approve entering into the amended Articles of Agreement (hereafter “Agreement”), a copy of which is attached hereto as Exhibit A, with the intent and effect that the County shall be bound by the Agreement.
2. The Board of Commissioners or any member of the Board, or any agent authorized by the Board, is hereby directed to take any such other action as may be necessary or appropriate to carry out the purposes of this Ordinance and of the Agreement.
3. Nothing contained in this Ordinance shall be construed to affect any suit or proceeding in any court, or any rights acquired or liability incurred, or any cause of action existing prior to the enactment of this Ordinance.
4. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Commissioners that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

5. Any ordinance, parts of ordinances, resolutions or parts of resolutions conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance's provisions.

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

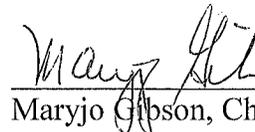
ENACTED AND ORDAINED as an Ordinance by the Board of Commissioners of the County of Berks, in lawful session duly assembled, this 31st day of May, 2018.

COUNTY OF BERKS


Christian Y. Leinbach, Chairman


Kevin S. Barnhardt, Commissioner

Attest:


Maryjo Gibson, Chief Clerk

VOTED NO
Mark C. Scott, Commissioner

EXHIBIT A
FORM OF AMENDED AGREEMENT

ARTICLES OF AGREEMENT BETWEEN AND AMONG THE GOVERNMENTS OF THE
TOWNSHIP OF LOWER ALSACE, THE TOWNSHIP OF ALSACE, THE BOROUGH OF
MOUNT PENN, THE CITY OF READING AND THE COUNTY OF BERKS

PREAMBLE

We, the elected representatives of the local governments with an interest in the Mt. Penn Preserve, recognize that many of the problems and needs confronting this area are independent of political boundaries; that any solutions to our problems and the programs that we formulate to meet our common needs will have a greater chance of success if they are undertaken jointly and in a cooperative manner.

Therefore, the representatives of the Township of Lower Alsace, the Township of Alsace, the Borough of Mount Penn, the City of Reading (each, a "Municipality" and together, the "Municipalities"), and the County of Berks (the "County", and, together with the Municipalities, the "Government Members") hereby join together to form the Mt. Penn Preserve Partnership Council of Governments ("MP3 COG").

The overriding goal of the MP3 COG is to improve the quality of life for the residents of the area and for those who visit this area by exploring and implementing the initiatives identified in the 2017 Mt. Penn Preserve Master Plan, coordinating law enforcement activities, standardize permitting regulations and other issues identified by the participating Government Members. We believe that this goal can best be achieved through cooperative efforts by the Government Members. This involves combining our various resources to meet regional challenges which may be beyond our individual capabilities.

The key to the success of the MP3 COG is for all Government Members' officials to exhibit a strong commitment to seek the solution of common problems within the context of the MP3 COG. We recognize that cooperation which is truly regional will sometimes entail some trade-offs, and we believe the results will provide better regional qualities than could be achieved by each individual Government Member in the area.

This agreement is to establish a council of governments in the Mt. Penn Preserve region as defined by the 2017 Master Plan and shown in Exhibit B. It does not create a new layer of government, or a super-government. It does provide a means of communication, cooperation and joint action in the interest of the municipalities individually and collectively.

ARTICLE I – NAME

The name of this organization shall be the "Mt. Penn Preserve Partnership Council of Governments" and henceforth may be referred to as the "MP3 COG."

ARTICLE II – PURPOSE

The MP3 COG will meet at regular intervals to explore and implement initiatives within the Mt. Penn Master Plan, foster a cooperative effort to resolve regional problems, coordinate law enforcement activities, regulate permitting, provide coordinated promotion, to determine policies, and to formulate plans and programs to meet regional needs. The MP3 COG will embrace a number of purposes. These are:

- A. **Forum:** To serve as a mutual forum to identify, discuss, study, and bring into focus regional issues and needs for those who reside in or visit the Mt. Penn Preserve area.
- B. **Communication & Coordination:** To provide the organizational structure necessary to ensure the exploration and implementation of initiatives in the Mt. Penn Preserve Master Plan and produce effective communications and coordination among the municipal partners.
- C. **Policies & Priorities:** To foster, develop, and review policies, plans, and priorities for regional growth and development and to conserve natural and cultural resources.
- D. **Community Facilities & Services:** To facilitate cooperative efforts to provide organized community facilities, events and services.
- E. **Regional Spokesperson:** To maintain a liaison with members, governmental units and groups or organizations and to serve as regional spokesperson for local governments to governmental units and organizations at the county, state, and federal levels.
- F. **Staff Support:** To furnish general and technical staff support to Government Members as they direct or request, to promote and implement approved agreements, policies, projects and programs.
- G. **Regional Review:** To review and coordinate federal, state, and local programs of regional importance and to apply for governmental and non-governmental grants to implement initiatives and programs.

ARTICLE III – POWERS & SCOPE OF AUTHORITY

As specified in the Act of December 19, 1996, Title 53, Pa. C.S.A. Section 2301 et. seq., municipalities may cooperate in the exercise or performance of their respective governmental functions, powers or responsibilities. It is the intention of the Government Members subscribing to these Articles of Agreement that the MP3 COG may establish any program and perform any function permitted in this agreement and future amended agreements subsequently agreed to by the participating Government Members, while recognizing the need for the MP3 COG to adhere to all Commonwealth laws and regulations that apply to governmental agencies. In order to carry out these activities, it is hereby agreed that unless otherwise specified below, the MP3 COG may:

- A. adopt ordinances and regulations that will be consistent across the preserve area to coordinate law enforcement, public safety, public services, permitting of events, marketing, etc.
- B. employ staff permanent, temporary, part-time or full-time positions as necessary, according to adopted policies and establish employee benefit programs as needed;
- C. apply for, receive, administer and dispense funds from municipal, state, federal agencies, or other sources;
- D. acquire, manage, license, lease or dispose of real property, as specified in these Articles of Agreement and in accordance with executed contracts;

- E. acquire, manage, license, or dispose of personal property owned by the MP3 COG as specified in these Articles of Agreement and in accordance with executed contracts;
- F. establish an organizational structure as deemed necessary;
- G. contract for services;
- H. initiate, advise, aid in the establishment of or amend cooperative agreements among local governments in the region;
- I. propose, initiate, implement or revise studies, policy discussions and plans for the MP3 COG;
- J. make recommendations to any local governments or other appropriate agencies or entities; and,
- K. take other actions consistent with enabling legislation and the terms of these Articles of Agreement.

ARTICLE IV – MEMBERSHIP

A. Eligibility & Membership: Voting membership on the MP3 COG Executive Committee shall be provided to one (1) elected official appointed by the governing body of each Government member, one (1) municipal secretary, administrator or a second elected official appointed by each Government member, one (1) elected County Commissioner, and one (1) representative of the Berks County Planning Commission, (each, a “member” and collectively, the “members” or the “membership”).

Non-voting membership shall be open to any organization designated by the voting membership.

B. Admission: Each Government Member must subscribe by ordinance to these Articles of Agreement and agree to be bound to the extent provided in these Articles and other agreements adopted by the MP3 COG.

C. Withdrawal: A member shall have the right to withdraw from the MP3 COG at the end of any calendar year by giving twelve (12) months prior written notice to the MP3 COG Chair. In the case of Government Members, this notice shall be in the form of an ordinance approved by the governing body of the Government Member. A Government Member’s withdrawal will in no way eliminate or lessen the financial obligation the municipality agreed to as a member of the MP3 COG.

D. Procedures and Responsibilities:

1. Meetings – The MP3 COG Executive Committee shall meet at least four (4) times a year. Meetings shall be held in accordance with the PA Sunshine Act 65 Pa. Cons. Stat. Section 261 et. seq. Additional meetings may take place upon call of the Chair or by request of two of more of the Government Members. Members

will be provided with forty-eight (48) hours' notice about the meeting and the topic of the meeting. During the month of January, the MP3 COG Executive Committee shall conduct an organizational meeting to select Officers and designate regular meeting dates.

2. Responsibilities— As the general policy body, the MP3 COG Executive Committee is responsible both for considering and for carrying out the programs and functions agreed to by the participating municipalities. In accordance with all provisions of these Articles, the MP3 COG shall:
 - a. annually elect officers as required;
 - b. adopt a budget;
 - c. resolve membership and participation questions;
 - d. act on amendments to the Articles of Agreement, after each such amendment has been approved by all of the Government Members by adoption of an ordinance evidencing such approval;
 - e. act on all proposals to initiate, continue, modify, or discontinue any programs or functions of the MP3 COG;
 - f. If needed, consider and approve the hiring of staff and all related Human Resource policies determined to be necessary for the administration of the programs and policies of the MP3 COG
 - g. appoint a solicitor who is unaffiliated with the governments who are a party to this agreement;
 - h. apply for grants from any governmental or non-governmental agency, and
 - j. provide annual written reports on the activities of the MP3 COG to all members, through the municipal secretary and County Clerk.

E. Committees: The MP3 COG Executive Committee may establish such standing, special or ad hoc committees as deemed appropriate to conduct its business. Standing committees may include, but not be limited to: Finance & Capital, Promotions & Marketing, Public Safety & Public Services and Environmental & Land Use Committees.

ARTICLE V – FINANCING

Beginning in 2019, Government Members in the MP3 COG shall participate in funding the basic cost of the MP3 COG operations. To recognize their joint commitment to the MP3 COG, all five (5) Government Members shall equally share in funding the MP3 COG operations budget by remitting \$2,000 annually.

A prioritized five (5) year capital plan will be drafted and presented to the Government Members for their consideration and approval. These costs shall be established by the MP3 COG Executive

Committee in the annual budget, adopted by June 30th of each year and submitted to the Government Members by July 30th of each year for their consideration. Capital contributions, apart from the annual operations contribution, will be allocated on a per-project basis based on the nature and extent of each project and impact on the facility owned by the Government Member. No Government Member shall be obligated or required to make capital contributions, apart from the annual operations contribution, described in the preceding paragraph, to fund projects on facilities not owned by that Governmental Member. Successful fundraising by the MP3 may reduce the amount of the Government Members capital contributions.

The Government Members shall remit their contributions no later January 31st of the following fiscal year. MP3 COG Government Members shall pay their share of MP3 COG operations and capital contributions within 35 days of the date of billing, no later than January 31st annually. Payments must be received or postmarked by the due date or a penalty of 10% will be assessed

ARTICLE VI – TERM

The MP3 COG shall exist for a ten (10) year term. The term of the MP3 COG is renewable by the Government Members for a term as approved by the governing body of the Government Members. Members may withdraw from the MP3 COG as per Article IV.C. herein.

COUNTY OF BERKS

ATTEST:

Chief Clerk

County Commissioner Chair
Date: _____

ATTEST:

CITY OF READING

City Clerk

Reading Council President
Date: _____

ATTEST:

LOWER ALSACE TOWNSHIP

Municipal Secretary

Chair, Lower Alsace Township Board of Supervisors
Date: _____

ATTEST:

ALSACE TOWNSHIP

Municipal Secretary

Chair, Alsace Township Board of Supervisors
Date: _____

ATTEST:

MT. PENN BOROUGH

Municipal Secretary

Mt. Penn Borough Council President

Date: _____

