

**CHAPTER 4  
BUILDINGS**

**PART 1**

**CONSTRUCTION CODE**

- § 101. Adoption of Code**
- § 102. Incorporation of Code**
- § 103. Administration and Enforcement**
- § 104. Board of Appeals**
- § 105. Prior Ordinances**
- § 106. Fees**

**PART 2**

**UCC BOARD OF APPEALS**

- §201. Title and Background**
- §202. Approval of Agreement**
- §203. Authorization to Execute Agreement with Berks County**
- §204. Prior Actions**
- §205. Future Actions**
- §206. Compliance with the Pennsylvania Intergovernmental Cooperation Agreement**

**PART 1**  
**CONSTRUCTION CODE**

**§ 101. Adoption of Code.**

The Township hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code, Act 47 of 1999, 35 P.S. §§7210.101-7210.1103, as amended from time to time, and its regulations.

**§ 102. Incorporation of Code.**

The Uniform Construction Code, contained in 34 Pa. Code, Chapter 401-405, as amended from time to time, is hereby adopted and incorporated herein by reference as the municipal building code of the Township.

**§ 103. Administration and Enforcement**

Administration and enforcement of the Code within the Township shall be undertaken in any of the following ways as determined by the Board of Supervisors of the Township from time to time by resolution:

- A. By the designation of an employee of the Township to serve as the municipal code official to act on behalf of the Township;
- B. By the retention of one (1) or more construction code officials of third-party agencies to act on behalf of the Township
- C. By agreement with one (1) or more other municipalities for the joint administration and enforcement of the Code through an intermunicipal agreement;
- D. By entering into a contract with another municipality for the administration and enforcement of the Code on behalf of the Township;
- E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one (1) family or two (2) family dwelling units and utility and miscellaneous use structures.

**§ 104. Board of Appeals.**

A Board of Appeals shall be established by resolution of the Board of Supervisors of the Township in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one (1) or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

**§ 105. Prior Ordinances**

- A. All building code ordinances or portions of ordinances which were adopted by the Township on or before July 1, 1999, and which equal or exceed the requirements of the Code shall continue in full force and effect until such time as such provisions fail to equal or exceed the minimum requirements of the Code, as amended from time to time.
- B. All building code ordinances or portions of ordinances which are in effect as of the effective date of this ordinance and whose requirements are less than the minimum requirements of the Code are hereby amended to conform with the comparable provisions of the Code.
- C. All relevant ordinances, regulations and policies of the Township not governed by the Code shall remain in full force and effect.
- D. Climatic, geographic, and inside/outside environmental standards for the local area as required by the respective codes incorporated into the Code shall be established by the Board of Supervisors by resolution from time to time.

**§ 106. Fees**

Fees assessable by the Township for the administration and enforcement undertaken pursuant to this Ordinance and the Code shall be established by the Board of Supervisors by resolution from time to time.

(Ordinance No. 04-03, 6/15/04)

## PART 2

### UCC BOARD OF APPEALS

#### § 201. Title and Background.

The Title and Background of this Ordinance set forth above are incorporated herein by reference.<sup>1</sup>

#### § 202. Approval of Agreement.

The Board hereby approves entering into the Agreement, a copy of which is attached hereto and incorporated herein by reference (and which shall be filed with the minutes of the meeting at which this Ordinance was enacted), with the intent and effect that the Township shall be bound by the Agreement.

#### § 203. Authorization to Execute Agreement with Berks County.

The Chairman of the Board is hereby authorized and directed on behalf of the Township: (i) to execute and deliver the Agreement; and (ii) to execute and deliver such additional instruments, and to take such further actions, as may be necessary or appropriate to carry forth the Agreement and the transactions to be effected under the Agreement, including payment of the participation fee to Berks County on behalf of the UCC Board of Appeals, as may be due from the Township under the Agreement.

#### § 204. Prior Actions

All actions of any officer, agent or other representative of the Township heretofore taken in the pursuit of the establishment of the UCC Board of Appeals and/or the Township's participation therein are hereby ratified and approved in all respects.

---

#### <sup>1</sup> BACKGROUND

A. Certain townships and boroughs in Berks County, Pennsylvania have enacted ordinances adopting the Uniform Construction Code ("UCC"), Act 45 of 1999, 35 P.S. §7210.101, et seq. (the "Act").

B. Section 301 of the Act directed the Pennsylvania Department of Labor and Industry to promulgate regulations with respect to the administration and enforcement of the Act, which regulations were codified at Title 34 Pa. Code, Chapters 401, 403 and 405 ("Regulations").

C. Section 403.121(d) of the Regulations, 34 Pa. Code §403.121(d), as authorized by Section 501(c) of the Act, 35 P.S. §7210.501(c), provides that two (2) or more municipalities may establish a joint board of appeals through an intergovernmental agreement adopted under the authority of the Pennsylvania Intergovernmental Cooperation Act, 53 Pa. C.S. 2301, et seq.

D. Under the Pennsylvania Intergovernmental Cooperation Act, a municipality may enter into an intergovernmental cooperation agreement upon the passage of an ordinance by its governing body.

E. Robeson Township ("Township") desires to enter into an intergovernmental agreement ("Agreement") with other participating municipalities in cooperation with the County to establish the Berks County Uniform Construction Code Board of Appeals ("UCC Board of Appeals"), to hear and rule on appeals, requests for variances and requests for extension of time as may be filed under the Township's UCC ordinance.

**§ 205. Future Actions**

The Board is hereby authorized to take such other action as may be necessary or appropriate to carry out the purposes of this Ordinance and of the Agreement.

**§ 206. Compliance with the Pennsylvania Intergovernmental Cooperation Agreement**

As required by the Pennsylvania Intergovernmental Cooperation Act, the following matters are specifically found and determined:

- A. The conditions of the Agreement are set forth in the Agreement.
- B. The Township shall utilize the UCC Board of Appeals for all appeals filed from application of the township's UCC ordinance for the term as set forth in the Agreement.
- C. The purpose and objectives of the Agreement are as set forth in the Background of this Ordinance and in the Agreement.
- D. The manner and extent of financing the Agreement are that: (i) no borrowing will be required by the Township; (ii) funds to implement the Township's obligations under the Agreement shall come from normal and usual budgeted amounts for such matters; and (iii) other provisions governing the manner and extent of the financing of the UCC Board of Appeals shall be as set forth in the Agreement;
- E. The UCC Board of Appeals shall be administered by the Board of Commissioners of Berks County, or its designee.
- F. All property, real or personal, of the UCC Board of Appeals shall be acquired, managed, licensed or disposed of by the UCC Board of Appeals in accordance with the terms of the Agreement and the rules and procedures as may be adopted by the UCC Board of Appeals.
- G. The UCC Board of Appeals will not be entering into any contracts.

(Ordinance No. 08-03, 3/18/08)

## APPENDIX

### INTERGOVERNMENTAL AGREEMENT FOR THE ESTABLISHMENT OF THE BERKS COUNTY UNIFORM CONSTRUCTION CODE BOARD OF APPEALS

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made this 18th day of March, 2008, by and among Berks County, Pennsylvania (“County”) and the undersigned Boroughs and Townships of Berks County.

#### BACKGROUND

A. Certain townships and boroughs in Berks County have enacted ordinances adopting the Uniform Construction Code (“UCC”), Act 45 of 1999, 35 P.S. §7210.101, et seq. (the “Act”).

B. Section 301 of the Act directed the Pennsylvania Department of Labor and Industry to promulgate regulations with respect to the administration and enforcement of the Act, which regulations were codified at Title 34 Pa. Code, Chapters 401, 403 and 405 (“Regulations”).

C. Section 403.121(d) of the Regulations, 34 Pa. Code §403.121(d), as authorized by Section 501(c) of the Act, 35 P.S. §7210.501(c), provides that two (2) or more municipalities may establish a joint board of appeals through an intergovernmental agreement adopted under the authority of the Pennsylvania Intergovernmental Cooperation Act, 53 Pa. C.S. §2301, et seq.

D. Under the Pennsylvania Intergovernmental Cooperation Act, a municipality may enter into an intergovernmental cooperation agreement upon the passage of an ordinance by its governing body.

E. Certain boroughs and townships located in Berks County (individually, “Participating Municipality” and collectively, “Participating Municipalities”) desire to enter into an intergovernmental agreement (“Agreement”) in cooperation with the County to establish the Berks County Uniform Construction Code Board of Appeals, to hear and rule on appeals, requests for variances and requests for extension of time as may be filed under each Participating Municipality’s UCC ordinance.

NOW, THEREFORE, based on the foregoing and pursuant to the authority of the Pennsylvania Intergovernmental Cooperation Act, as amended, the County and the Participating Municipalities agree and intend to be legally bound as follows:

## **SECTION 1. ESTABLISHMENT OF THE BOARD OF APPEALS**

- 1.1 The Berks County Board of Commissioners, in cooperation with the governing bodies of the Participating Municipalities, hereby establish the Berks County Uniform Construction Code Board of Appeals (“Board”).
- 1.2 The Participating Municipalities shall designate the Board, by resolution or ordinance, as the body to hear appeals brought under the codes and standards promulgated in the most current version of the Act, as may be amended and adopted by a Participating Municipality.

## **SECTION 2. PURPOSE**

- 2.1 The purpose of the Board is to hear and rule on appeals, requests for variances, and requests for extensions of time under the Act. An application for appeal shall be based on a claim that the true intent of the Act has been incorrectly interpreted, the provisions of the Act do not fully apply or an equivalent or better form of construction is to be used.

## **SECTION 3. ORGANIZATION**

- 3.1 The Board shall consist of five (5) members and five (5) designated alternates.
- 3.2 Members of the governing body of a Participating Municipality and its building code official may not serve on the Board.
- 3.3 A member of the Board shall be qualified by training and experience to pass on matters pertaining to building construction. Training and experience may consist of licensure as an architect or engineer, experience in the construction industry, or training or experience as an inspector or plan reviewer.
- 3.4 A member of the Board holds office at the discretion of the Berks County Board of Commissioners.
- 3.5 The Board shall hold an annual organizational meeting, at which it shall elect a Chairman and Vice Chairman. The Chairman or Vice Chairman shall have the authority to call the Board into a special session.
- 3.6 The Secretary to the Board shall be the Berks County Planning Director or the Director’s designee.
- 3.7 The County Board of Commissioners may fill a position on the Board with a

qualified person who resides outside of the County when it cannot find a person within the County who satisfies the requirements of this Section.

- 3.8 A member of the Board may not cast a vote or participate in a meeting or hearing in any appeal, request for variance or request for extension of time in which the member has a personal, professional or financial interest, or where such participation may otherwise constitute a conflict of interest within the meaning of the State Ethics Act.
- 3.9 The Board shall schedule meetings and hearings and provide public notice of meetings and hearings in accordance with the Pennsylvania Sunshine Act, 65 Pa. C.S. §701, *et seq.*, as amended.
- 3.10 The Board may not act on appeals, requests for variance or requests for extension of time relating to accessibility.
- 3.11 The Board may, as it deems necessary, hire legal, architectural, engineering or other professional consultants.
- 3.12 Each Participating Municipality shall pay an annual subscription fee in an amount as may be determined by resolution of the Board from time to time. Any Participating Municipality that fails to pay the annual subscription fee shall be required to withdraw from this Agreement and appeals from a decision of such Participating Municipality's building code official shall not be heard by the Board.

#### **SECTION 4. APPEALS AND EXTENSIONS OF TIME**

- 4.1 An owner or owner's agent may seek a variance or extension of time or appeal a decision of a Participating Municipality's building code official by filing with the Board Secretary an Appeal Form available from the County Planning Office or the Participating Municipality.
- 4.2 The postmark date or the date of personal service on the Board Secretary will establish the filing date of the appeal or request for variance or extension of time.
- 4.3 An appeal or request for extension of time to the Board will automatically suspend an action to enforce an order to correct issued by the building code official until the matter is resolved; provided, however, an action under Section 403.84 of the Regulations, 34 Pa. Code §403.84 (relating to unsafe building, structure or equipment) may not be stayed.

- 4.4 The Board shall decide an appeal, request for variance or request for extension of time by reviewing the Appeals Form, accompanying documents, and the written brief or argument, if any, unless the owner or owner's agent requests a hearing.
- 4.5 The Board shall hold a hearing within sixty (60) days from the date of the request for hearing by the owner or owner's agent unless the owner or owner's agent agrees in writing to an extension of time for the hearing.
- 4.6 All hearings shall be held in accordance with the Local Agency Law, 2 Pa. C.S. §551, *et seq.*
- 4.7 The Board shall only consider the following factors when deciding an appeal under Section 501(c)(2) of the Act:
  - 4.7.1 The true intent of the Act or the Regulations was incorrectly interpreted.
  - 4.7.2 The provisions of the Act do not apply.
  - 4.7.3 An equivalent or better form of construction is to be used.
- 4.8 The Board may consider the following factors when ruling on a request for extension of time:
  - 4.8.1 The reasonableness of the application of the Act or the Regulations in a particular case.
  - 4.8.2 The extent to which the granting of an extension of time will pose a violation of the Act or the Regulations or an unsafe condition.
  - 4.8.3 The availability of professional or technical personnel needed to come into compliance.
  - 4.8.4 The availability of materials and equipment needed to come into compliance.
  - 4.8.5 The efforts being made to come into compliance as quickly as possible.
  - 4.8.6 Compensatory features that will provide an equivalent degree of

protection to the Act and/or the Regulations.

- 4.9 If the owner or owner's agent requests a hearing, the Board shall schedule a hearing and notify the owner or owner's agent and Participating Municipality's building code official of the date, time and place of the hearing.
- 4.10 The Board may:
  - 4.10.1 Deny the appeal or request in whole or in part.
  - 4.10.2 Grant the appeal or request in whole or in part.
  - 4.10.3 Grant the appeal or request upon certain conditions being satisfied.
- 4.11 The Board shall provide a written notice of its decision to the owner and to the Participating Municipality's building code official.
- 4.12 An owner shall file an appeal and request for extension of time relating to accessibility with the Accessibility Advisory Board under Section 403.142 of the Regulations, 34 Pa. Code §403.12 (relating to Accessibility Advisory Board).
- 4.13 An owner desiring to appeal the decision of the Board shall do so to the Berks County Court of Common Pleas within thirty (30) days of the date of the written decision.

**SECTION 5. EFFECTIVE DATE**

5.1 The effective date of this Agreement shall be upon enactment by ordinance of this Agreement by all the Participating Municipalities.

IN WITNESS WHEREOF, the County and the Participating Municipalities, pursuant to actions of their respective governing boards, have entered into this Agreement the day and year first above written.

ATTEST:

COUNTY OF BERKS, PENNSYLVANIA

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman

ATTEST:

ROBESON TOWNSHIP, BERKS  
COUNTY, PENNSYLVANIA

Galen Brown  
Secretary

Roger K. Feeg  
Chairman