

**TOWNSHIP OF UPPER BERN
COUNTY OF BERKS
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO.: 159-2021

**AN ORDINANCE AUTHORIZING THE UPPER BERN TOWNSHIP
BOARD OF SUPERVISORS OF THE COUNTY OF BERKS,
PENNSYLVANIA, TO ENTER INTO AN INTERGOVERNMENTAL
AGREEMENT TO ESTABLISH THE BERKS COUNTY UNIFORM
CONSTRUCTION CODE BOARD OF APPEALS IN COOPERATION
WITH PARTICIPATING MUNICIPALITIES WITHIN THE COUNTY**

BACKGROUND

A. A majority of the 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 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 Section 2303 of the Pennsylvania Intergovernmental Cooperation Act, 53 Pa.C.S. § 2303, two or more local governments may enter into an intergovernmental cooperation agreement, as deemed appropriate, in the exercise or performance of their respective governmental functions, power or responsibilities.

E. Certain municipalities desire to enter into an intergovernmental agreement (“Agreement”) to establish the Berks County UCC Board of Appeals in cooperation with the County of Berks, to hear and rule on appeals, requests for variances and requests for extension of time as may be filed within each such municipality under the respective municipality’s UCC ordinance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of Upper Bern Township, County of Berks, Pennsylvania, as follows:

Section 1. The Title and Background of this Ordinance set forth above are incorporated herein by reference.

Section 2. The Board of Supervisors of Upper Bern Township (the “Board”) hereby approve entering into the Agreement, a copy of which is attached hereto as Exhibit A 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 County of Berks ("County") shall be bound by the Agreement.

Section 3. The Board is hereby authorized and directed on behalf of the County: (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 acceptance of payment of the participation fee as may be due by the participating municipalities to administer the Agreement.

Section 4. All actions of any officer, agent or other representative of the County heretofore taken in the pursuit of the establishment of the UCC Board of Appeals and/or the County's participation therein are hereby ratified and approved in all respects.

Section 5. 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.

Section 6. 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 participating municipalities shall utilize the UCC Board of Appeals for all appeals filed from application of the participating municipalities 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 County; (ii) funds to implement the County's obligations under the Agreement shall come from the payment of the participation fee by the participating municipalities and from the payment of filing fees by applicants for appeal; 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 managed by its members pursuant to the terms of the Agreement.
- (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.
- (g) The UCC Board of Appeals will not be entering into any contracts.

Section 7. 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.

Section 8. All Ordinances or Resolutions, or parts of Ordinances or Resolutions, insofar as they are inconsistent herewith, shall be in the same or hereby repealed.

Section 9. If any Section or part of a Section of this Ordinance shall be declared invalid, such invalidity shall not affect the remaining parts or Sections of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been enacted as if such invalid Section or portion thereof had not been included therein.

Section 10. This Ordinance shall become effective upon adoption.

ORDAINED AND ENACTED this 8th day of July, 2021, by a vote of 3 Yes
 No Abstained Absent.

UPPER BERN TOWNSHIP BOARD OF SUPERVISORS

By: Nancy A. Hartman
Nancy Hartman, Chairman

By: Gloria Grim
Gloria Grim, Vice Chairman

By: Mike Fisher
Mike Fisher, Supervisor

ATTEST:

Deen Shovalta
Secretary
Attest:

ENACTED AND ORDAINED, this _____ day of _____, 2021, by the Board of Commissioners of the County of Berks, Pennsylvania.

COUNTY OF BERKS

Attest: _____
Chief Clerk

Chairperson

Commissioner

Commissioner

(SEAL)

EXHIBIT A
Intergovernmental Cooperation Agreement