

ORDINANCE NO. 11-006

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

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 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. Upper Bern Township desires to enter into an intergovernmental agreement and request an extension of time as may be filed under the Township’s UCC ordinance.

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

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

Section 2. The Upper Bern Township Board of Supervisors 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.

Section 3. The Chairman of the Board of Supervisors 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.

Section 4. 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.

Section 5. The Township Board of Supervisors is hereby authorized to take such other action as may be necessary or appropriate to carry out the purposes of the Ordinance.

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 Township shall utilize the UCC Board of Appeals for all appeals filed from application of 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.

Section 7. The provisions of this Ordinance are severable and if any section, sentence, clause, or part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction such decision of the court shall not affect the remaining sections, clauses, parts or provisions of this Ordinance would have enacted if such illegal, invalid or unconstitutional section, sentence, clause, part of provision had not been included herein.

Section 8. 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 9. This Ordinance shall be effective according to applicable law.

DULY ORDAINED AND ENACTED THIS 5 day of May, 2006,
by the Upper Bern Township Board of Supervisors, Berks County, Pennsylvania.

ATTEST:

[Signature]
Secretary

By: [Signature]
Chairman

By: [Signature]

By: [Signature]

Certified to be a true and correct copy of Ordinance No. 11 adopted May 2, 2006.

(Municipal Seal)

[Signature]
Secretary

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 37
adopted by the Township of Upper Bern Board of Supervisors, Berks County, Pennsylvania at a
regular meeting held on May 3, 2006, pursuant to notice as required by law.

Date: 5/3/06

[Signature]
Secretary