

ORDINANCE NO. 87-2007

AN ORDINANCE FOR THE TOWNSHIP OF UPPER BERN, COUNTY OF BERKS, PENNSYLVANIA, AUTHORIZING THE TOWNSHIP TO ENTER INTO AN INTER-GOVERNMENTAL AGREEMENT FOR THE PURPOSE OF THE IMPLEMENTATION OF THE JOINT COMPREHENSIVE PLAN FOR NORTHERN BERKS COUNTY

WHEREAS, the Township of Upper Bern, the Township of Tilden, the Township of Upper Tulpehocken, the Township of Windsor, the Borough of Hamburg, and the Borough of Strausstown, all and each of which are located entirely within the County of Berks, Commonwealth of Pennsylvania, desire to implement the Joint Comprehensive Plan for Northern Berks County pursuant to the Pennsylvania Municipalities Planning Code and the Pennsylvania Intergovernmental Cooperation Act; and

WHEREAS, the Board of Supervisors of the Township of Upper Bern desire to adopt an Ordinance pursuant to the Pennsylvania Municipalities Planning Code and the Pennsylvania Inter-Governmental Cooperation Act to authorize the Township to execute the Northern Berks County Inter-Governmental Agreement for a Joint Comprehensive Plan in order to implement said Comprehensive Plan.

NOW, THEREFORE, the Township of Upper Bern does hereby ordain the following:

SECTION 1. Purpose. The purpose of the Joint Comprehensive Plan for Northern Berks County Inter-Governmental Agreement (the "Agreement") is to implement the Joint Comprehensive Plan for Northern Berks County (the "Comp Plan").

SECTION 2. Grant of Power. This Ordinance is adopted pursuant to authority granted in the Pennsylvania Intergovernmental Cooperation Act, Act 177 of 1996, 53 Pa.C.S.A. Section 2301, et seq., as amended, the Second Class Township Code 53 P.S. Section 65101, et seq, as amended, or as it may be amended from time to time, and Article XI of the Pennsylvania Municipalities Planning Code.

SECTION 3. Participation and Authority to Enter Agreement. Pursuant to and in accord with the above-referenced authority, the Township of Upper Bern is hereby authorized and does hereby declare its intention to enter into the Agreement with the Township of Tilden, the Township of Upper Tulpehocken, the Township of Windsor, the Borough of Hamburg, and the Borough of Strausstown (collectively, the "Participants"), which governs the Participants, and the implementation of the Comp Plan in accordance with the authority granted in the above-referenced laws and this

Ordinance. A copy of the Agreement is attached to this Ordinance and incorporated herein by reference.

SECTION 4. Authorization and Ratification.

A. The Chairman of the Board of Supervisors of the Township of Upper Bern 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.

B. All necessary and appropriate actions of any officer, agent or other representative of the Township of Upper Bern heretofore taken in the pursuit of the Agreement and/or the Township's participation therein, are hereby ratified and approved in all respects.

C. The Board of Supervisors of the Township of Upper Bern 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 5. Justification for Agreement. As required by the Pennsylvania Intergovernmental Cooperation Act, 53 Pa.C.S.A. Section 2307, the following matters are specifically found and determined:

(a) The conditions of the Agreement are set forth in the Agreement.

(b) The Township shall participate in the Comp Plan for an indefinite term, or withdraw upon a one-year written notice to the other Comp Participants.

(c) The purpose and objectives of the Agreement are as set forth in the Agreement.

(d) The Agreement will require no financing.

(e) No organizational structure will be necessary to implement the Agreement.

(f) No property, real or personal, shall be acquired, managed, licenses or disposed of pursuant to the Agreement.

(g) Contracts will not be empowered pursuant to the terms of the Agreement.

SECTION 6. Repeal of Ordinances. Any ordinance, parts of ordinances, resolution or parts of resolutions conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance's provisions.

SECTION 7. Severability. If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance is, for any reason, declared to be illegal, unconstitutional or invalid by any Court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase word, or remaining portion of the within Ordinance. The Board of Supervisors of the Township of Upper Bern, Pennsylvania, hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases, or word that may be declared illegal, unconstitutional or invalid.

SECTION 8. Effective Date. This Ordinance shall become effective at the earliest date permitted by law.

SECTION 9. Code of Ordinances. The Code of Ordinances, as amended, of the Township of Upper Bern, Berks County, Pennsylvania, shall be and remain unchanged and in full force and effect, except as amended, supplemented and modified by this Ordinance. This Ordinance shall become a part of this Code of Ordinances upon adoption.

ENACTED AND ORDAINED this 11th day of April, 2007.

TOWNSHIP OF UPPER BERN

By Paul A. Moyer
Chairman

Dennis J. Casper
Supervisor

[Signature]
Supervisor

ATTEST:

Shane Casper
Secretary

COPY

THE JOINT COMPREHENSIVE PLAN FOR
NORTHERN BERKS COUNTY INTER-GOVERNMENTAL AGREEMENT

THIS INTER-GOVERNMENTAL AGREEMENT is hereby made this _____ day of _____, 2007, by and between the BOROUGHS of HAMBURG and STRAUSSTOWN and the TOWNSHIPS of TILDEN, UPPER BERN, UPPER TULPEHOCKEN AND WINDSOR, all and each of which are located entirely within the County of Berks, Commonwealth of Pennsylvania (each a "Participant" and collectively, the "Participants") to address the implementation of the Joint Comprehensive Plan for Northern Berks County (the "Comp Plan"). Pursuant to the Pennsylvania Intergovernmental Cooperation Act, this Agreement has been adopted by an Ordinance by each of the Participants.

WHEREAS, the goal of the Project is to assist in implementing a multi-municipal comprehensive plan, which has heretofore been adopted by each of the Participants (the "Plan"), that will meet the requirements of the Pennsylvania Municipalities Planning Code ("MPC"), and take advantage of opportunities provided in the MPC to municipalities that create a Plan;

WHEREAS, the Participants desire to conform with the provisions for a Multi-Municipal Comprehensive Plan Cooperative Implementation Agreement, as provided in the MPC and the Pennsylvania Intergovernmental Cooperation Act.

NOW, THEREFORE, it is agreed among the parties hereto that:

1. The above purpose clauses are hereby made a part of this Agreement by this reference.
2. If requested in the future by one or more of the Participants after the adoption of the Comp Plan, the Participants shall form a Northern Berks Regional Planning Committee ("NBRPC") consisting of no more than one (1) member, and one (1) alternate, from each Participant. The NBRPC shall be purely advisory and is primarily intended to coordinate any future amendments to the Comp Plan.

3. Final adoption of any amendments to the Comp Plan shall be the province of the governing bodies of each Participant, following review and comment by such Participant's planning commission and by the Berks County Planning Commission, in accordance with §302 of the MPC.

4. The NBRPC shall only have the authority to expend such funds as may be specifically allocated in the future for such purpose by the governing bodies of the Participants or that may be provided in grants that are authorized by the Participants. Each Participant shall have complete discretion to decide whether it shall allocate any funds to the NBRPC in the future, and the amount of any such allocation. The NBRPC shall not have the authority to hire paid staff or to enter into contracts.

5. This Agreement recognizes provisions of the MPC that require a municipal zoning amendment to be generally consistent with a Plan, unless the Plan is amended to be consistent with that zoning amendment.

6. The Participants agree to provide any draft zoning amendment or proposed new zoning ordinance to all of the other Participants for review if that zoning amendment or new zoning ordinance would result in a zoning map change, a change in the allowed residential densities or a change in the land uses allowed in certain locations. This provision shall not apply to routine matters of purely local concern, such as signs, parking, administrative provisions, accessory uses, setbacks and similar matters. The Participants shall be provided with the same minimum time to provide any review comments as is provided to the Berks County Planning Commission for a new zoning ordinance or zoning amendment review under the MPC.

7. The Participants agree to give due consideration to any amendment to the Comp Plan that is proposed by a Participant. The Participants are not required to consider an amendment to the Comp Plan unless such consideration is requested in writing by the governing

body of a Participant or by the NBRPC. If requested by such an entity, each Participant agrees to commence a municipal planning commission review, public meeting and governing body hearing and decision within 120 days after receiving a formal request from a Participant to consider such Amendment.

8. It is intended that the Comp Plan will be reviewed jointly by the Participants within 5 years after adoption, and then amended as appropriate within approximately 10 years after adoption.

9. If any portion of a proposed subdivision or land development is within 500 feet from the boundaries of any adjacent Participant, the Participant in which the subdivision or land development is located shall provide a copy of the plan for the subdivision or land development to the adjacent Participant within 5 days after receipt of such subdivision or land development plan. This provision shall not apply to minor subdivisions, lot line adjustments or lot mergers.

10. If any Participant wishes to withdraw from the Comp Plan, such Participant shall provide one year's written notice thereof to the other Participants.

11. Subdivision and land development approval powers shall continue to only be exercised by the Participant in which the property where the approval is sought is located. Ordinance adoption and amendment powers shall continue to be exercised by the each Participant within its municipal boundaries.

12. This Agreement may only be amended by a written ordinance adopted by all of the Participants, other than those Participants who have withdrawn from the Agreement under paragraph 10. Such amendment shall not become effective until the last Participant under this Agreement has adopted such ordinance amendment.

13. If one Participant is requesting an amendment to the Comp Plan (each a “Plan Amendment”), that Participant shall compensate the other Participants for the actual costs of required legal advertisements of the Participants for the Plan Amendment. A Participant that is requesting a Plan Amendment shall provide the proposed Plan Amendment in a form that is ready for adoption by the Participants. Except as set forth in this Section 13, each Participant shall bear its own costs and expenses incurred in regard to the negotiation, drafting, advertising and implementation of this Agreement.

14. This Agreement shall become effective after each of the Participants have adopted it by Ordinance.

IN WITNESS WHEREOF and intending to be legally bound hereby, the parties hereto have set their hands and seals as indicated below.

BOROUGH OF HAMBURG

Name:
Title:

Date: _____

Attest

BOROUGH OF STRAUSSTOWN

Name:
Title:

Date: _____

Attest

TILDEN TOWNSHIP

Name:
Title:

Date: _____

Attest

UPPER BERN TOWNSHIP

Name:
Title:

Date: _____

Attest

UPPER TULPEHOCKEN TOWNSHIP

Name:
Title:

Date: _____

Attest

WINDSOR TOWNSHIP

Name:
Title:

Date: _____

Attest