

ORDINANCE NO. 795

AN ORDINANCE OF THE BOROUGH OF MT. PENN, BERKS COUNTY, PENNSYLVANIA, AUTHORIZING THE BOROUGH TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR THE PURPOSE OF JOINING THE TOWNSHIP OF LOWER ALSACE IN IMPLEMENTING THE JOINT COMPREHENSIVE PLAN, LOWER ALSACE TOWNSHIP MOUNT PENN BOROUGH, 2006 (THE "PLAN") AND THE LOWER ALSACE TOWNSHIP, MOUNT PENN BOROUGH, BERKS COUNTY ZONING ORDINANCE OF 2011 (THE "JOINT ZONING ORDINANCE")

WHEREAS, the goal of the Plan is to assist in implementing a multi-municipal comprehensive 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; and

WHEREAS, the Township of Lower Alsace and the Borough of Mt. Penn desire to conform with the requirements for a Multi-Municipal Comprehensive Plan Cooperative Implementation Agreement, as provided in Article XI of the MPC and to utilize the authority of the Pennsylvania Intergovernmental Cooperation Act to enter into an agreement to implement the Plan and the Joint Zoning Ordinance (the "Agreement").

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby enacted and ordained by the Borough Council of the Borough of Mt. Penn, Berks County, Pennsylvania (the "Borough") as follows:

Section 1. Approval of Intergovernmental Agreement The Borough 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 Borough shall be bound by the Agreement.

Section 2. Authorizations and Ratification.

(a) The President of Borough Council is hereby authorized and directed on behalf of the Borough, (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 actions of any officer, agent or other representative of the Borough heretofore taken in the pursuit of the Agreement and/or the Borough's participation therein, are hereby ratified and approved in all respects.

(c) The Borough Council of the Borough 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 3. Justification for Agreement. As required by the Pennsylvania Intergovernmental Cooperation Act, 53 Pa. C. S. 2307, the following matters are specifically found and determined:

- (a) The conditions of the Agreement are set forth in the Agreement.
- (b) The Borough shall participate in the Plan for an indefinite term.
- (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, licensed or disposed of pursuant to the Agreement.
- (g) Contracts will not be empowered pursuant to the terms of the Agreement.

Section 4. Severability. 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 Borough Council of the Borough of Mt. Penn that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 5. Repealer. All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance.

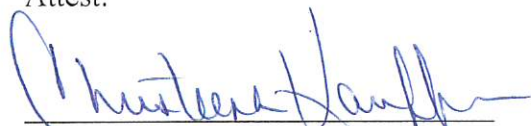
Section 6. Effective Date. This Ordinance shall become effective five (5) days after enactment.

DULY ENACTED AND ORDAINED this 22nd day of November, 2011.


BOROUGH OF MT. PENN

  
\_\_\_\_\_  
President, Borough Council

Attest:

  
\_\_\_\_\_  
Secretary

Approved:

  
\_\_\_\_\_  
Mayor

**THE JOINT COMPREHENSIVE PLAN, LOWER ALSACE TOWNSHIP MOUNT  
PENN BOROUGH, 2006 AND THE LOWER ALSACE TOWNSHIP, MOUNT PENN  
BOROUGH, BERKS COUNTY ZONING ORDINANCE OF 2011  
INTER-GOVERNMENTAL AGREEMENT**

THIS INTER-GOVERNMENTAL AGREEMENT is hereby made this 22nd day of November, 2011, by and between the TOWNSHIP OF LOWER ALSACE and the BOROUGH of MT. PENN (each a "Participant" and collectively, the "Participants") to address the implementation of THE JOINT COMPREHENSIVE PLAN, LOWER ALSACE TOWNSHIP MOUNT PENN BOROUGH, 2006 (THE "Plan") AND THE LOWER ALSACE TOWNSHIP, MOUNT PENN BOROUGH, BERKS COUNTY ZONING ORDINANCE OF 2011 (the "Joint Zoning Ordinance").

WHEREAS, the goal of the Plan is to assist in implementing a multi-municipal comprehensive 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 Article XI of the MPC and to utilize the authority of the Pennsylvania Intergovernmental Cooperation Act.

NOW, THEREFORE, intending to be legally bound, it is agreed among the parties hereto that:

1. The Participants have approved the Plan as an Inter-municipal Comprehensive Plan and have adopted the Joint Zoning Ordinance.
2. If requested by either of the Participants, the Participants shall re-form the Lower Alsace Township Mount Penn Borough Joint Planning Commission ("JPC") consisting of two (2) members from each Participant shall re-form the Lower Alsace Township Mount Penn Borough Joint Planning Commission ("JPC") consisting of two (2) members from each

Participant. The JPC shall be purely advisory and is primarily intended to coordinate any future amendments to the Plan and the Joint Zoning Ordinance.

3. Final adoption of any amendments to the Plan and the Joint Zoning Ordinance 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 JPC 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 JPC in the future, and the amount of any such allocation. The JPC 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 the Plan, unless the Plan is amended to be consistent with that zoning amendment.

6. Any one of the Participants may propose a draft zoning amendment. In such case, the draft zoning amendment shall be provided to all of the other Participants for review. Any zoning amendment shall only be effective after the governing bodies of all three Participants adopt the zoning amendment.

7. The Participants agree to give due consideration to any amendment to the Plan and any draft zoning amendment that is proposed by a Participant. The Participants are not required to consider an amendment to the Plan or a zoning amendment unless such consideration is requested in writing by the governing body of a Participant or by the JPC. 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 Participants will review the Plan jointly within five (5) years after adoption, and make amendments as appropriate within approximately ten (10) years after its adoption.

9. If any portion of a proposed subdivision or land development is within five hundred (500) feet from the boundaries of any adjacent Participant, the Participant in which the subdivision or land development is located agrees to provide a copy of the plans for the subdivision or land development to the adjacent Participant within thirty (30) days after receipt of such subdivision or land development plan. This provision shall not apply to minor subdivisions, lot line adjustments or lot annexations.

10. If any Participant wishes to withdraw from the Plan, or from this Agreement, such Participant shall provide a minimum of one year's advance 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.

12. This Agreement may only be amended by an ordinance adopted by all of the Participants, other than those Participants who have withdrawn from the Agreement under Section 10 above. Such amendment shall not become effective until the last Participant under this Agreement has adopted such ordinance amendment, with written notice of such approval provided to each Participant.


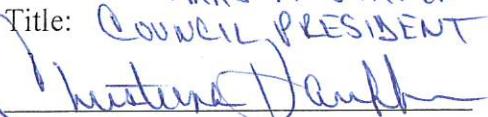
13. A Participant that is requesting a Plan amendment or zoning ordinance amendment shall provide the proposed amendment in a form that is ready for adoption by the Participants. The Participants may choose to hold joint public meetings and joint public hearings

for the adoption of proposed Amendments to either the Plan or Joint Zoning Ordinance.

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

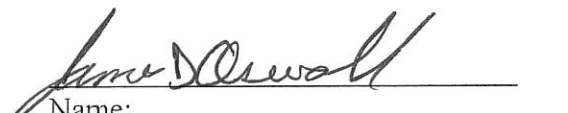
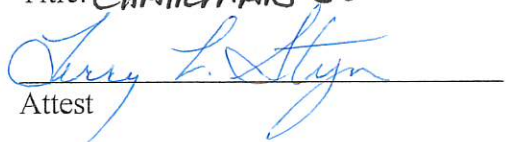
IN WITNESS WHEREOF and intending to be legally bound hereby, the parties hereto have set their hands and seals as indicated below.

BOROUGH OF MT. PENN

  
Name: THOMAS A. STARON  
Title: COUNCIL PRESIDENT  
  
Attest

Date: 11/22/11

TOWNSHIP OF LOWER ALSACE

  
Name:  
Title: CHAIRMAN SUPERVISOR  
  
Attest

Date: 11-22-11