

**AN ORDINANCE AUTHORIZING THE BOROUGH OF ST. LAWRENCE, 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 IN COOPERATION WITH THE COUNTY OF BERKS**

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. Borough of St. Lawrence 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 Borough's UCC ordinance.

NOW, THEREEFORE, BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of St. Lawrence, 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 Council 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 3. The President of 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, including payment of the participation fee to Berks County on behalf of the UCC Board of Appeals, as may due from the Borough under the Agreement.

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

Section 5. The Council 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 Borough shall utilize the UCC Board of Appeals for all appeals filed from application of the Borough'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 Borough; (ii) funds to implement the Borough'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. It is hereby declared to be the intent of

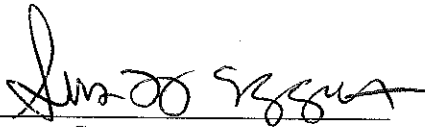
the Borough that such Ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

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.

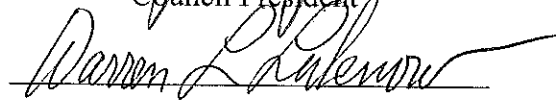
Section 9. This Ordinance shall become effective according to applicable law.

DULY ORDAINED AND ENACTED THIS 13 day of April, 2006, by the Borough Council of the Borough of St. Lawrence, Berks County, Pennsylvania.

Attest:

  
Secretary

  
Council President

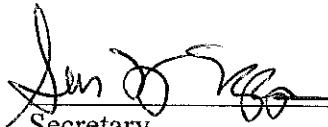
  
Mayor

(SEAL)

**CERTIFICATE OF ENACTMENT**

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 375 adopted by the [Board of Supervisors of St. Lawrence Township][Borough Council of the Borough of St. Lawrence], Berks County, Pennsylvania at a regular meeting held on April 13, 2006, pursuant to notice as required by law.

Date: April 13, 2006

  
Secretary

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

**THIS INTERGOVERNMENTAL AGREEMENT** ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2006 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 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 maybe 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 three (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 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.



### Proof of Publication of Notice in Reading Eagle

Under Act No. 587, Approved May 16, 1929.

Commonwealth of Pennsylvania,  
County of Berks } ss:

Jo Ann Gottschall, Assistant Secretary, READING EAGLE COMPANY, of the County and Commonwealth aforesaid, being duly sworn, deposes and says that the READING EAGLE established January 28, 1868 is a newspaper of general circulation published at 345 Penn Street, City of Reading, County and State aforesaid, and that the printed notice or publication attached hereto is exactly the same as printed and published in the regular edition and issues of the said READING EAGLE on the following dates, viz.:

**Reading Eagle      Thursday, March 23, 2006, A.D.**

Effective July 1, 2002 Reading Times Ceased Publication. The Reading Eagle will be a daily morning and Sunday edition.

Affiant further deposes that this person is duly authorized by READING EAGLE COMPANY, a corporation, publisher of said READING EAGLE, a newspaper of general circulation, to verify the foregoing statement under oath, and affiant is not interested in the subject matter of the aforesaid notice or advertisement, and that all allegations in the foregoing statements as to time, place, character of publication are true.

Copy of Notice or Publication

**NOTICE**

The Borough Council of the Borough of St. Lawrence will consider the adoption of an ordinance at its meeting on Thursday, April 13, 2006 at 7:30 p.m. at the Borough of St. Lawrence Municipal Building, 3540 St. Lawrence Avenue, Reading, Pennsylvania 19606. A summary of the ordinance is as follows:

**AN ORDINANCE AUTHORIZING THE BOROUGH OF ST. LAWRENCE, BERKS COUNTY, PENNSYLVANIA, TO JOIN WITH OTHER PARTICIPATING MUNICIPALITIES TO ENTER INTO AN INTER-GOVERNMENTAL AGREEMENT TO ESTABLISH THE BERKS COUNTY UNIFORM CONSTRUCTION CODE BOARD OF APPEALS IN COOPERATION WITH THE COUNTY OF BERKS**

Copies of the full text of the ordinance may be examined without charge or obtained for a charge not greater than the cost thereof at the Borough of St. Lawrence Municipal Building, 3540 St. Lawrence Avenue, Reading, PA 19606, at the Berks County Law Library, Berks County Courthouse, Sixth and Court Streets, Reading, PA 19601, and at the Reading Eagle-Times, 345 Penn Street, Reading, PA 19601.

Joan E. London, Esquire  
Solicitor, Borough of St. Lawrence

*Jo Ann Gottschall*

Jo Ann Gottschall

Sworn to and subscribed before me this 23 rd day  
of March, 2006

*Ann L. Liptak*

Notary

#### Statement of Advertising Costs

#### ST LAWRENCE UNIFORM CONSTRUCT

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COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL  
ANN L. LIPTAK, NOTARY PUBLIC  
CITY OF READING, BERKS COUNTY  
MY COMMISSION EXPIRES OCT. 2, 2008

To READING EAGLE, DR.:

For publishing the notice or publication attached hereto on the above stated dates	<u>\$120.72</u>
Probating same	<u>\$5.00</u>
<b>Total</b>	<b><u>\$125.72</u></b>

#### Publisher's Receipt for Advertising Costs

The READING EAGLE COMPANY, publisher of the READING EAGLE, a newspaper of general circulation, hereby acknowledges receipt of the aforesaid notice and publication costs and certifies the same have been duly paid.

READING EAGLE COMPANY, a Corporation

By \_\_\_\_\_