

ORDINANCE NO. 254

**AN ORDINANCE OF THE BOROUGH OF BALLY,
BERKS COUNTY, PENNSYLVANIA, ADOPTING THE PROVISIONS OF THE
PENNSYLVANIA CONSTRUCTION CODE, AS THE CONSTRUCTION CODE
OF THE BOROUGH; AND REPEALING ALL OTHER ORDINANCES OR
PARTS OF ORDINANCES IN CONFLICT THEREWITH.**

WHEREAS, the purpose of this ordinance is to promote the general health, safety and welfare of the citizens of the Borough of Bally, Berks County, Pennsylvania (hereinafter, the "Borough") and to conform to the requirements of the Pennsylvania Construction Code Act and regulations to the Act promulgated by the Pennsylvania Department of Labor and Industry (hereinafter sometimes collectively referred to as the "Code"); and

WHEREAS, the Pennsylvania Construction Code Act requires the enactment of an appropriate ordinance by municipalities electing to administer and enforce the provisions of the various building codes included within the Code.

NOW, THEREFORE, it is hereby enacted and ordained as follows:

SECTION 1. ADOPTION OF CODE. The provisions of the Pennsylvania Construction Code Act (as set forth in Act 45 of 1999, 35 P.S. §§7210.101-7210.1103, as amended from time to time) and the Regulations to the Act promulgated by the Pennsylvania Department of Labor and Industry Uniform Construction Code (as set forth in 34 Pa. Code, Chapters 401-405, as amended from time to time), are hereby adopted and incorporated herein by reference as the municipal construction code of the Borough.

SECTION 2. ADMINISTRATION AND ENFORCEMENT OF CODE. The Borough hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act (Act 45 of 1999, 35 P.S. §§7210.101-7210.1103, as amended from time to time), and its construction code regulations promulgated by the Pennsylvania Department of Labor and Industry Uniform Construction Code (as set forth in 34 Pa. Code, Chapters 401-405, as amended from time to time).

SECTION 3. METHODS OF ENFORCEMENT. Administration and enforcement of the Code within the Borough shall be undertaken in any of the following ways as determined by the Borough Council of the Borough of Bally from time to time by resolution:

- A. By the designation of the Borough Code Enforcement Officer, or other Borough employee, to serve as the municipal code official to act on behalf of the Borough;
- B. By the retention of one or more construction code officials or third-party agencies to act on behalf of the Borough;
- C. By agreement with one or more other municipalities for the joint administration and enforcement of this Act through an intermunicipal agreement;
- D. By entering into a contract with another municipality for the administration and enforcement of this Act on behalf of the Borough;
- E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

SECTION 4. AMENDMENTS TO CODE. The provisions of the Code shall be amended as follows:

A. "Borough of Bally" shall be substituted for [NAME OF JURISDICTION] throughout the Code.

B. The Borough of Bally Code Enforcement Officer is hereby appointed as the person authorized to enforce the provisions of the Code within the Borough. All references throughout the Code to the "building official" shall be deemed to refer to the Borough of Bally Code Enforcement Officer.

SECTION 5. BOARD OF APPEALS. A Board of Appeals shall be established by resolution of the Borough Council of the Borough of Bally in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

SECTION 6. REPEALER. The following Ordinances of the Borough are hereby repealed in whole or in part:

- A. Ordinances No. 207 and 208 are hereby repealed in their entirety.
- B. All other ordinances or parts of ordinances in conflict with the terms of this Ordinance are hereby specifically repealed.
- C. All other relevant ordinances, regulations and policies of the Borough not governed by the Code shall remain in full force and effect.

SECTION 7. FEES TO BE ESTABLISHED BY RESOLUTION. Fees assessable by the Borough for the administration and enforcement undertaken pursuant to this Ordinance and the Code shall be established by the Borough Council by resolution from time to time.

SECTION 8. PENALTY FOR VIOLATION. In addition to any other enforcement action taken pursuant to the provisions of any of the Code, any person who in a civil action filed in a Court of competent jurisdiction shall be determined to be in violation of any provision of this Ordinance shall pay a fine of not more than one thousand dollars (\$1000.00). Each day that a violation of this Ordinance continues shall constitute a separate offense.

SECTION 9. ILLEGALITY OR INVALIDITY. If any provisions of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 10. NO AFFECT ON PENDING LITIGATION. Nothing in this Ordinance nor in the Code adopted herein, shall be construed to affect any suit or proceeding presently pending in any court, or any rights acquired, or liability incurred, or any cause of action acquired or existing under any act or ordinance hereby repealed by the Code herein adopted. No legal right nor remedy of any character shall be lost, impaired, or affected by this Ordinance.

SECTION 11. EFFECTIVE DATE. This Ordinance shall be effective five days after the date of passage of this Ordinance.

ENACTED AND ORDAINED this 1st day of June, 2004.

BOROUGH OF BALLY
BOROUGH COUNCIL

Attest: Yvonne L. Hemmick
Secretary to Borough Council

By: Christina M. [Signature]
Council President

APPROVED:

Philip D. Ferrizzi
Philip D. Ferrizzi, Mayor