

ORDINANCE NO. 260

**AN ORDINANCE AUTHORIZING THE BOROUGH OF BALLY, 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. The Borough of Bally 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 Township's UCC Ordinance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Bally, 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 Borough 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 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, including payment of the participation fee to Berks County on behalf of the UCC Board of Appeals, as may be 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 Borough 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 the 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 in this 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 Township 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 proper to the enactment of this Ordinance.

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

DULY ORDAINED AND ENACTED THIS 4 day of April, 2006, by the Borough Council of the Borough of Bally, Berks County, Pennsylvania.

BOROUGH OF BALLY  
BOROUGH COUNCIL

Attest: Toni Hemerka  
Secretary to Borough Council

By: Scott M. Smith  
Council President

APPROVED:

Philip D. Ferrizzi  
Philip D. Ferrizzi, Mayor

**CERTIFICATE OF ENACTMENT**

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 260 adopted by the Borough Council of the Borough of Bally, Berks County, Pennsylvania at a regular meeting held on April 4, 2006, pursuant to notice as required by law.

Date: April 4, 2006

Toni Hemerka  
Toni Hemerka, Secretary