

ORDINANCE NO. 02-2020

AN ORDINANCE AMENDING ORDINANCE NO. 01-06 THAT AUTHORIZED THE BOARD OF COMMISSIONERS OF THE COUNTY OF BERKS TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT TO ESTABLISH THE BERKS COUNTY UNIFORM CONSTRUCTION CODE BOARD OF APPEALS IN COOPERATION WITH PARTICIPATING MUNICIPALITIES WITHIN THE COUNTY

WHEREAS, the Berks County Board of Commissioners (“Commissioners”) previously adopted Ordinance No. 01-06 that authorized the Commissioners to enter into intergovernmental agreements establishing the Berks County Uniform Construction Code Board of Appeals (“UCC Board”) in cooperation with participating municipalities within Berks County; and

WHEREAS, the Commissioners desire to amend Ordinance No. 01-06 for the purpose of clarifying the number of designated alternates required for the UCC Board while ratifying and approving each and every agreement with individual municipalities regarding the establishment of the UCC Board executed prior to the adoption of this Ordinance.

NOW THEREFORE, IT IS HEREBY ENACTED AND ORDAINED by the Commissioners as follows:

1. The intergovernmental agreement establishing the UCC Board attached to Ordinance No. 01-06 is hereby replaced with the attached Agreement, which is incorporated 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 County of Berks shall be bound by the Agreement.
2. All previous intergovernmental agreements with individual municipalities regarding the establishment of the UCC Board executed prior to the adoption of this Ordinance are hereby ratified and approved.

3. Except as provided above, Ordinance No. 01-06 shall continue to remain in full force and effect in all other respects.
4. 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.
5. This Ordinance shall become effective as provided by applicable law.

ENACTED AND ORDAINED, this 25th day of June, 2020, by the Board of Commissioners of the County of Berks, Pennsylvania.

COUNTY OF BERKS

Not Present at meeting
Christian Y. Leinbach, Commissioner

Attest: Maryjo Gibson
Maryjo Gibson, Chief Clerk

Kevin S. Barnhardt
Kevin S. Barnhardt, Vice Chair

Michael S. Rivera
Michael S. Rivera, Commissioner

(SEAL)

EXHIBIT A
Intergovernmental Cooperation Agreement

Community Commercial Credit
Small Business Group
800-422-8552
Reading, Pennsylvania

REF ID#: 6104786293

Status: Prequalified
Amount: \$74,118
Rate: 3.983%
Purpose: Working Capital LOC

Expires: 10 days

A business line of credit provides on-demand funding and can help to smooth over the ebb and flow of sales and cash flow throughout the year.

We specialize in commercial lines of credit and can make it easy for you to obtain a line for your business. Whether you are looking to obtain working capital for your existing business, or need immediate funds, our team can work with you to determine which type of financing solution is the best fit for your business.

Rates

- No upfront fees
- 6 months to 15-year payments
- Monthly and quarterly payments
- 50k to 300k unsecured lines

Open your account today and receive your funds as quickly as tomorrow.

You can open the LOC to keep for future needs at no cost. Only pay for what you use and pay it off at any time.

Call us today and reference your ID# above to review your options.

Community Commercial Credit
Small Business Group
800-422-8552

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

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made this _____ day of _____, 20__ 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 five (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.
 - 4.6.3 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.

- 4.11 The Board shall provide a written notice of its decision to the owner and to the Participating Municipality's building code official.
- 4.12 An owner shall file an appeal and request for extension of time relating to accessibility with the Accessibility Advisory Board under Section 403.142 of the Regulations, 34 Pa.Code § 403.12 (relating to Accessibility Advisory Board).
- 4.13 An owner desiring to appeal the decision of the Board shall do so to the Berks County Court of Common Pleas within thirty (30) days of the date of the written decision.

SECTION 5. EFFECTIVE DATE

- 5.1 The effective date of this Agreement shall be upon enactment by ordinance of this Agreement by all the Participating Municipalities.

IN WITNESS WHEREOF, the County and the Participating Municipalities, pursuant to actions of their respective governing boards, have entered into this Agreement the day and year first above written.

ATTEST: COUNTY OF BERKS, PENNSYLVANIA

Secretary

Chairman

_____ TOWNSHIP, BERKS
COUNTY, PENNSYLVANIA

ATTEST:

Secretary

Chairman

_____ BOROUGH, BERKS
COUNTY, PENNSYLVANIA

ATTEST:

Secretary

President

Municipality	Intergovernmental Agreement Date	Municipal Ordinance Date	IGA Members Alt 3	IGA Members 5 and Alt 5	Comments
Albany Township					NON MEMBER
Alsace Township	October 18 2006	March 15th 2006		x	
Amity Township	June 5 2007	June 5 2007		x	
Bally Borough	April 4 2006	April 4 2006		x	
Bechtelsville Borough	May 10 2006	May 10 2006			Section 3.1 of agreement wri
Bern Township					NON MEMBER
Bernville Borough	May 6 2008	April 1 2008		x	
Bethel Township	March 25 2008	March 25 2008			Section 3.1 of agreement wri
Birdsboro Borough	April 10 2006	April 10 2006			Section 3.1 of agreement wri
Boyetown Borough	May 1 2006	May 1 2006			Section 3.1 of agreement wri
Brecknock Township	February 7 2006	February 7 2006	x		
Caernarvon Township		April 2006?			Section 3.1 of agreement wri
Centerport Borough					NON MEMBER
Centre Township	May 27 2010	May 10 2010		x	
Colebrookdale Township	March 17 2008	March 17 2008		x	
Cumru Township	April 24 2007	April 18 2006		x	
District Township	April 16 2020	Resolution 2020-8 April 16 2020		x	annual letters since 2006
Douglass Township	November 15 2006	April 19 2006		x	used white out to put in five
Earl Township	March 28 2007	March 13 2006			Section 3.1 of agreement wri
Exeter Township	February 4 2015	December 22 2014		x	
Fleetwood Borough	April 24 2007	April 8 2006			Section 3.1 of agreement wri
Greenwich Township					NON MEMBER
Hamburg Borough		March 16 2006			only annual letters 2009
Heidelberg Township					NON MEMBER
Hereford Township					NON MEMBER
Jefferson Township					NON MEMBER
Kenhorst Borough	April 6 2006	April 6 2006			Section 3.1 of agreement wri
Kutztown Borough	February 5th 2007	January 16 2007		x	
Laureldale Borough	March 13 2006	March 13 2006			Section 3.1 of agreement wri
Leesport Borough	March 18 2009	March 18 2009		x	
Lenhartsville Borough	July 17 2013	May 1 2013		x	
Longswamp Township					NON MEMBER
Lower Alsace Township					NON MEMBER
Lower Heidelberg Township	March 28 2007	Ord.257			Section 3.1 of agreement wri

Oley Township									NON MEMBER
Ontlaunee Township	May 4 2006			Ord. 2006-2					Section 3.1 of agreement wri
Penn Township									NON MEMBER
Perry Township	March 28 2007			June 13 2006					Section 3.1 of agreement wri
Pike Township	April 4 2006			April 4 2006			x		
Reading									NON MEMBER
Richmond Township	December 10 2013			December 13 2010			x		
Robeson Township	March 18 2008			March 18 2008			x		
Robesonia Borough									NON MEMBER
Rockland Township	April 11 2006			April 11 2006					Section 3.1 of agreement wri
Ruscombmanor Township									NON MEMBER
St. Lawrence Borough	March 28 2007			April 13 2006					Section 3.1 of agreement wri
Shillington Borough	April 24 2007			January 11 2007			x		
Shoemakersville Borough	February 2 2010			Resolution 55-2010 February 2, 2010					Section 3.1 of agreement wri
Sinking Spring Borough	April 5 2007			February 7 2006			x		
South Heidelberg Township	September 22 2008			September 11 2008					Section 3.1 of agreement wri
Spring Township	March 28 2006			April 10 2006			x		
Strausstown Borough									NON MEMBER MERGED WIT
Tilden Township	April 1 2006			April 1 2006			x		
Topton Borough	April 20 2007			December 27 2006			x		
Tulpehocken Township									NON MEMBER
Union Township	April 17 2006			April 17 2006					Section 3.1 of agreement wri
Upper Bern Township	May 3 2006			May 3 2006					Section 3.1 of agreement wri
North Heidelberg Township									NON MEMBER
Washington Township									NON MEMBER
Wernersville Borough	December 6 2006			December 6 2006			x		
West Reading Borough	March 28 2007			May 15 2006					
Windsor Township	May 11 2007			December 27 2006					Section 3.1 of agreement wri
Womelsdorf Borough				December 6 2016					
Wyomissing Borough	March 28 2007			May 9 2006					Section 3.1 of agreement wri