

ORDINANCE NO. 613

AN ORDINANCE OF THE TOWNSHIP OF PENN, YORK COUNTY, PENNSYLVANIA AUTHORIZING AN INTERGOVERNMENTAL COOPERATION AGREEMENT FOR A JOINT BOARD OF APPEALS

BE IT ENACTED AND ORDAINED, by the Penn Township Board of Commissioners, York County, Pennsylvania, and it is hereby ordained by the authority of the same as follows:

WHEREAS, Penn Township is a municipality, being a First Class Township in the Commonwealth of Pennsylvania, (hereafter referred to as "Municipality"); and

WHEREAS, the Commonwealth of Pennsylvania has adopted the Pennsylvania Construction Code Act, Act 45 of 1999, creating the Uniform Construction Code, as amended from time to time (hereafter referred to as the "Act"), and pursuant to the Act, the Pennsylvania Department of Labor and Industry has promulgated regulations contained in 34 Pa. Code Chapters 401-405, as amended from time to time (collectively with the Act hereafter referred to as the "UCC"); and

WHEREAS, the Municipality has adopted an Ordinance adopting the UCC; and

WHEREAS, the UCC requires that a five (5) member board of appeals be appointed to hear appeals from decisions of the municipal code administrator; and

WHEREAS, the Municipality desires to enter into an Intergovernmental Cooperation Agreement as authorized by the Act of December 19, 1996, P.L. 1158, Pa. C.S.A. Section 2301 et seq., known as the Intergovernmental Cooperation Act, and Section 501 (c) and 34 Pa. Code Section 403-121 (d) of the UCC, for the purpose of creating and operating a Board of Appeals.

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

Section 1. BOARD OF APPEALS

A Board of Appeals shall be established by the Board of Commissioners in conformity with the relevant provisions of the UCC, as amended from time to time, and for the purposes set forth therein. The Board of Appeals may be established by joint action of Penn Township and other participating municipalities, or the County of York, Pennsylvania, as provided by law. The Board of Commissioners of Penn Township specifically agrees to enter into an intergovernmental cooperation agreement to create, operate, maintain and fund a joint Board of Appeals with other participating municipalities, or the County of York, substantially in the form as the intergovernmental cooperation agreement attached hereto and incorporated herein as Exhibit "A". The President of the Board of Commissioners and the municipal secretary are authorized to execute the agreement on behalf of the Township.

EXHIBIT "A"

INTERGOVERNMENTAL COOPERATION AGREEMENT
CREATING A COUNTY BOARD OF APPEALS

THIS AGREEMENT, effective this 21st day of June, 2004, by and between the Township of Penn, York County, Pennsylvania (hereafter referred to as the "Municipality") and the County of York, Pennsylvania (hereafter referred to as the "County").

WHEREAS, the Commonwealth of Pennsylvania has adopted the Pennsylvania Construction Code Act, Act 45 of 1999, creating the Uniform Construction Code, as amended from time to time (hereafter referred to as the "Act"), and pursuant to the Act, the Pennsylvania Department of Labor and Industry has promulgated regulations contained in 34 Pa. Code Chapters 401-405, as amended from time to time (collectively with the Act hereafter referred to as the "UCC"); and

WHEREAS, the Municipality has adopted an ordinance adopting the UCC; and

WHEREAS, the UCC requires that a Board of Appeals be appointed to hear appeals from decisions of the Municipal Code administrator; and

WHEREAS, the Municipality desires to enter into an Intergovernmental Cooperation Agreement as authorized by the Act of December 19, 1996, P.L. 1158, 53 Pa. C.S.A. Section 2301 et seq., known as the Intergovernmental Cooperation Act, and Section 501 (c) and 34 Pa. Code Section 403.121 (d) of the UCC, for the purposes of creating and operating a County Board of Appeals.

NOW, THEREFORE, WITNESSETH that, for and in consideration of the mutual promises and agreements contained herein, the Municipality and the County agree as follows:

1. The foregoing recitations are incorporated by reference.
2. The Municipality is a municipal corporation, being a Township governed by the First Class Township Code.
3. The County is a municipal corporation, being a Third Class County, governed by County Code.
4. The Municipality delegates its responsibility to create a UCC Board of Appeals to the County; and the County accepts the delegation and will by ordinance create a County Board of Appeals (hereafter referred to as "County Board" to hear appeals from the decisions of the Municipal code administrator).
5. The County shall appoint five (5) members of the County Board, with no fewer than two (2) or more than five (5) alternate members, meeting the following requirements:
 - A. The initial County Board shall consist of one (1) member appointed for a term of five (5) years, one (1) member appointed for a term of (4) years, one (1) member appointed for a term of three years (3), one (1) member appointed for

a term of two (2) years, and one (1) member appointed for a term of one (1) year. Thereafter, each new member shall serve for five (5) years or until a successor has been appointed. Alternate members shall be appointed for a five (5) year membership.

- B. The County Board shall consist of members and alternate members from each of the following professions or disciplines:
- i. Registered design professional who is a registered architect; or builder or superintendent of building construction with at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work.
 - ii. Registered design professional with structural engineering or architectural experience.
 - iii. Registered design professional with mechanical or plumbing engineering experience; or a mechanical or plumbing contractor with at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work.
 - iv. Registered design professional with electrical engineering experience; or an electrical contractor with at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work.
 - v. Registered design professional with fire protection engineering experience; or a fire protection contractor with at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work.
- C. A member or alternate member of the County Board shall serve at the pleasure of the County Board of Commissioners.
- D. Members of the County Board of Commissioners, or members of the Municipality's governing body or its code administrators, may not serve on the County Board.
- E. The Building Code Official (hereafter referred to as "BCO") of the Municipality may be an ex officio member of the County Board for any appeal from the Municipality, but shall have no vote on any matter before the County Board.
- F. The County may fill a position on the County Board with a qualified person who resides outside of the County when it cannot find a person with the County who satisfies the requirements of this section.

- (3) the availability of professional or technical personnel, or materials and equipment, needed to come into compliance,
- (4) the efforts being made to come into compliance as quickly as possible,
- (5) compensatory features that will provide an equivalent degree of protection to the UCC.

J. The County Board shall render all decisions and findings in writing to the appellant, with a copy to the Municipal BCO. It shall be the responsibility of the BCO to forward a copy of each decision to the Municipality.

K. The County Board may adopt such other rules of procedure as it shall deem necessary to conduct its business.

L. A quorum of the County Board shall consist of a majority of the then-appointed members, excluding alternate members. Any action by the County board shall be by majority vote of the quorum at any meeting. Failure to achieve a majority vote shall result in denial of the appeal or other action requested.

M. The Chairman of the County Board shall call an alternate member or members to hear appeals and requests if a quorum cannot be achieved due to absence or disqualification of a member or members.

- 7. If no appeal, request for hearing, request for variance, or request for extension of time has been filed with the County Board, the Municipality may withdraw from the participation in this Agreement by adopting an Ordinance and notifying the County in writing. If an appeal, request for hearing, request for variance, or request for extension of time has been filed with the County Board pursuant to the requirements of this Agreement, the Municipality may withdraw from participation in this Agreement by adopting an ordinance and notifying the County in writing not less than ninety (90) days prior to the date of the termination.
- 8. The Municipality agrees that it will be responsible for the cost of any services provided pursuant to this Agreement and that the fees charged will cover the costs. If the fees established pursuant to Paragraphs 7.E. and 7.G.i do not cover the costs, the Municipality agrees that it will increase those fees to an amount that will do so.
- 9. This agreement shall be effective pursuant to the adoption of an ordinance authorizing the Municipality to enter into this Intergovernmental Cooperation Agreement, the adoption of an ordinance creating the County board by the County, and execution of this Agreement by the Municipality and County.

10. This agreement may be modified or amended from time to time by the Municipality and County, which modifications may be authorized by resolution, except for termination, which shall be by ordinance, as set forth in Paragraph 8.
11. The County and Municipality agree to indemnify and hold harmless each other, and their respective officers, employees, agents affiliates (and their officers, partners, directors, employees and agents) and their respective successors and assigns from and against any and all claims, losses, costs and expenses (including but not limited to personal injury, death, illness, or loss of or damage to property, and attorneys' fees and expenses) which arise out of or are related to the existence of this Agreement or duties and responsibilities hereunder.

IN WITNESS WHEREOF, the parties by their authorized-officers have fixed their hands and seals on the dates set forth below.

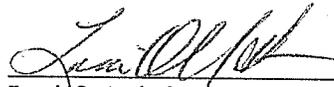
ATTEST:



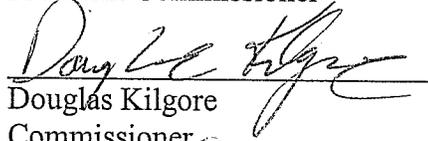
Charles R. Noll
Administrator/Chief Clerk

Date: 7/23/04

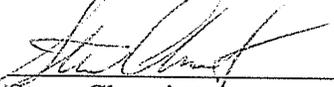
COUNTY OF YORK



Lori O. Mitrick
President Commissioner

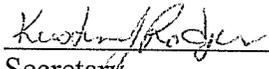


Douglas Kilgore
Commissioner



Steve Chronister
Commissioner

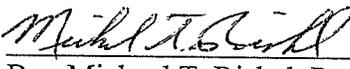
ATTEST:



Kevin M. Rodger
Secretary

Date: 6/21/04

TOWNSHIP OF PENN



By: Michael T. Rishel, President