

**FAWN GROVE BOROUGH
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2014 - 04

**AN ORDINANCE OF FAWN BOROUGH, YORK COUNTY, PENNSYLVANIA,
AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT FOR A JOINT
CODE INSPECTION BOARD OF APPEALS**

WHEREAS, Fawn Grove Borough ("Borough") is a borough organized under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Commonwealth of Pennsylvania has adopted the Pennsylvania Construction Code Act, Act 45 of 1999, creating the Uniform Commercial Code, and, pursuant to that Act, the Pennsylvania Department of Labor and Industry has promulgated regulations (collectively referred to as the "UCC"); and

WHEREAS, the UCC requires that a board of appeals ("Board of Appeals") be appointed to hear appeals from decisions of the Borough's code administrator; and

WHEREAS, the Borough 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 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 Borough Council in conformity with the relevant provisions of the UCC, and for the purposes set forth therein. The Board of Appeals may be established by joint action of the Borough and other participating municipalities of the County of York, Pennsylvania, as provided by law.

Section 2. Intergovernmental Cooperation Agreement.

The Borough Council specifically agrees to enter into an intergovernmental cooperation agreement to create, operate, maintain and fund a joint Board of Appeals with Other participating municipalities, and/or the County of York, substantially in the form as the intergovernmental cooperation agreement attached hereto and incorporated herein as Exhibit "A."(the "Agreement") The President of Borough Council and the

Borough Secretary are hereby authorized to execute the Agreement on behalf of the Borough.

Section 3. Additional Appointment of Members.

Further, the Borough appoints individually the persons selected by the County of York as the members of the County Board of Appeals to be the individual members of the Fawn Grove Borough Board of Appeals.

Section 4. Fees.

Any appeal fees assessable by the Borough for administration of the joint Board of Appeals pursuant to this Ordinance and the Agreement shall be established by the Borough Council by resolution from time to time.

Section 5. Severability.

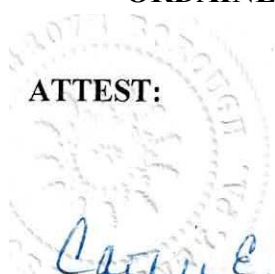
If any section, subsection, sentence or clause of this ordinance is held, for any reason to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance.

Section 6. Effective Date.

This Ordinance shall become effective five (5) days after enactment, or upon the effective date on which the last party executes the agreement, whichever occurs last.

ORDAINED AND ENACTED this 1st day of April 2014.

ATTEST:



Cathy E. Kirkwood
Secretary

**FAWN GROVE BOROUGH
COUNCIL**

By: Gordon M. Zadden
President

Approved this the 1st day of April 2014.

By: Bradley M. Frey
Mayor

INTERGOVERNMENTAL COOPERATION AGREEMENT
CREATING
A
COUNTY BOARD OF APPEALS

THIS AGREEMENT, effective this ____ day of _____, 2014, by and between Fawn Grove Borough, York County, Pennsylvania (hereafter referred to as "Municipality") and the County of York, Pennsylvania (hereafter referred to as "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 "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. 1 158, 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 borough, governed by the Borough Code.
3. The County is a municipal corporation, being a Third Class County, governed by the 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 four (4) years, one (1) member appointed for a term of three (3) years, 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 a 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 within the County who satisfies the requirements of this section.

G. A County Board member or alternate member may not cast a vote or participate in any appeal, request for hearing, variance, or extension of time in which the member has a personal, professional or financial interest.

H. The County Board shall schedule meetings and provide for public notice of meetings in accordance with 65 Pa. C.S.A. Section 701-716, relating to the Sunshine Act.

6. The County Board shall be governed by the following rules.

A. At its first convened meeting in each calendar year, the County Board shall elect

- i. a chair, who shall be responsible for running the meetings.
- ii. a vice chair, who shall take the place of the chair if he or she is unable to perform his or her duties, and
- iii. a secretary, who shall be responsible for keeping minutes of each meeting.

B. The County Board shall publish the date, time and location for the meetings for the following calendar year no later than December 31 of each year.

C. The County Board may not act upon an appeal, request for variance or request for extension of time relating to accessibility under the Act.

D. The County Board shall have no authority to waive requirements of the UCC.

E. The County Board shall consider an appeal, request for hearing, request for variance, or request for extension of time only if it has been filed with the Municipality, on a form provided by the Municipality or its BCO. A fee in an amount to be determined by the Municipality shall be paid by the applicant to the Municipality prior to the scheduling of the appeal, hearing, or request with the County Board. The fee shall be considered an integral part of such an appeal or request, and failure to file the fee at the time of filing of the appeal or request shall render the appeal or request for hearing, variance or extension of time incomplete as filed, and it will not be forwarded to the County Board until such fee has been paid. The postmark or date of personal service will establish the filing date of the appeal or request for variance or extension of time. Such appeal shall automatically suspend any action to enforce an order to correct, until the matter is resolved, except that any action relating to an unsafe building, structure, or equipment shall not be stayed by the appeal, request for variance, or request for extension of time.

F. Within sixty (60) days from the date of appeal or request for variance or extension of time, the County Board shall decide an appeal, variance request, or request for extension of time by reviewing documents and written brief or argument, unless the applicant requests a hearing.