

**BY-LAWS OF
WESTERN CHESTER COUNTY REGIONAL UCC
BOARD OF APPEALS**

PREAMBLE

WHEREAS, Atglen Borough, Caln Township, East Brandywine Township, East Caln Township, East Fallowfield Township, Honey Brook Borough, Honey Brook Township, Modena Borough, Newlin Township, Sadsbury Township, South Coatesville Borough, Valley Township, West Bradford Township, West Caln Township, West Fallowfield Township, West Grove Borough, West Nantmeal Township and West Pikeland Township (hereinafter "Members") have authorized their formation of and participation in a multi-municipal regional board of appeals to hear matters under the Uniform Construction Code, as set forth in 34 Pa. Code §403.121(d); and

WHEREAS, the Members have entered into an Intergovernmental Cooperation Agreement to Create the Western Chester County Regional UCC Board of Appeals ("Intergovernmental Agreement") dated _____, for the joint administration and enforcement of the Construction Code Act through the creation of a multi-municipal organization to be known as the "Western Chester County Regional UCC Board of Appeals" (hereinafter "Board of Appeals"), which Agreement memorialized the Members' responsibilities and obligations thereof; and

WHEREAS, the Members desire to execute By-Laws applicable to the Board of Appeals to govern the structure and functionality of the organization.

NOW THEREFORE, this _____ day of _____, 2009, the Members hereby adopt the following By-Laws for the Board of Appeals:

**ARTICLE I
Name, Location and Authorization**

1.1 Name. The name of the organization shall be the Western Chester County Regional UCC Board of Appeals.

1.2 Location. For purposes of sending and receiving mail, the location of the Board of Appeals shall be Gawthrop Greenwood, PC, c/o Stacey Fuller, Esquire, 17 E. Gay Street, Suite 100, P.O. Box 562, West Chester, PA 19381-0562.

1.3 Authorization. The formation of this Board of Appeals is authorized by 35 P.S. §7210.501(b)(3) and governed by the provisions of 34 Pa. Code §§403.121 and 403.122.

ARTICLE II

Purpose and Function

2.1 Purpose. The purpose of this organization is to administer and enforce the provisions of the Pennsylvania Uniform Construction Code, 35 P.S. §7210.101 et seq.

2.2 Function. The Board of Appeals shall establish a procedure for the appointment of a hearing board of appeals (“Hearing Board”) which shall hear and rule on appeals, requests for variances and requests for extensions of time. An application for appeal shall be based on a claim that the true intent of the UCC has been incorrectly interpreted, the provisions of the UCC do not fully apply or an equivalent form of construction is to be used.

ARTICLE III

Officers

3.1 Executive Committee. The Board of Appeals shall elect an Executive Committee which shall consist of representatives from six (6) different Members and shall meet at least once every quarter, or more or less frequently as the Executive Committee deems necessary, to discuss the structure and business of the organization. The Executive Committee of the Board of Appeals shall consist of a President, a Vice-President, a Secretary, a Treasurer and two (2) Officers at-large, and such other officers as the needs may require. The President shall not have the right to vote on any matter before the Executive Committee except where needed to break a tie vote of the Executive Committee.

3.1.1 The President shall be the chief executive officer; shall preside at all meetings of the Members; shall have general and active management of the Board of Appeals; shall be ex-officio a member of all committees and shall have the general powers and duties of supervision and management usually vested in the office of a President.

3.1.2 The Vice-President shall act in all cases for and as the President in the latter’s absence or incapacity, and shall perform such other duties as may be required from time to time.

3.1.3 The Secretary shall act as clerk and record all votes of the Board of Appeals and the minutes of all its transactions in a book to be kept for that purpose and shall perform like duties for committees when required.

3.1.4 The Treasurer shall have custody of the funds of the Board of Appeals, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Board of Appeals and shall collect any and all fees as determined by the Board of Appeals. The Treasurer shall disburse the funds of the Board of Appeals as may be ordered by the Board of Appeals, taking proper vouchers for such disbursements, and shall render at the regular meetings of the Board of Appeals an account of all transactions as Treasurer. The Treasurer shall prepare an annual budget for the organization for consideration and approval by the Members as set forth in section 4.7.2.

3.2 Election of Officers. Nominations for open officer positions shall be made from the floor at the annual reorganization meeting, and election of these positions shall follow immediately thereafter. A candidate receiving a majority vote shall be declared elected to such open position.

3.2.1 Vacancies. The Executive Committee shall meet and appoint a Member representative to fill any vacancy on the Executive Committee. Such appointee shall serve out the balance of the term of the position filled. If a member of the Executive Committee is removed for any reason as a Member representative, then the open position on the Executive Committee shall be deemed vacant and subject to appointment by the Executive Committee as set forth herein.

3.3 Term. Each Executive Committee member shall serve a three (3) year term. Executive Committee members shall be elected upon the vote and consent of a majority of the Members of the Board of Appeals. Terms of the Executive Committee shall be staggered and shall be based on the following schedule:

President – 1 year from the date of these By-Laws;
Vice-President – 2 years from the date of these By-Laws;
Secretary – 3 years from the date of these By-Laws;
Treasurer – 1 year from the date of these By-Laws;
First At-Large Executive Committee Member – 2 years from the date of these By-Laws;
Second At-Large Executive Committee Member – 3 Years from the date of these By-Laws.

3.4 Removal of Officers. Any officer may be removed upon a two-thirds ($\frac{2}{3}$) vote of the Members whenever the Members in their judgment believe the best interests of the Board of Appeals will be served thereby.

3.5 Check signing. All checks issued by the Board of Appeals shall be signed by the President or Vice-President and the Treasurer.

ARTICLE IV

Membership

4.1 Members. The Members of the Board of Appeals shall be all of the following municipalities: Atglen Borough, Caln Township, East Brandywine Township, East Caln Township, East Fallowfield Township, Honey Brook Borough, Honey Brook Township, Modena Borough, Newlin Township, Sadsbury Township, South Coatesville Borough, Valley Township, West Bradford Township, West Caln Township, West Fallowfield Township, West Grove Borough, West Nantmeal Township and West Pikeland Township.

4.2 Each Member shall have only one vote; however, each Member shall be permitted to appoint up to two (2) representatives to the Board of Appeals.

4.3 Member Fees. The initial membership fee for the Members shall be \$600.00 and shall be due on or before July 31, 2009. Thereafter, each Member shall pay an annual fee which shall be due on or before January 15th of each year. The annual fee shall be determined by a resolution of the Executive Committee during the 3rd quarter of each year.

4.3.1 Special Assessments. The Executive Committee may levy special assessments on the Members when it deems it necessary to maintain the orderly business of the Board of Appeals. Such special assessments are due within thirty (30) days of being levied by the Executive Committee.

4.4 New Members. Upon the vote and consent of at least two-thirds ($\frac{2}{3}$) of the then existing Members, any municipality may become a Member of this organization subject to the regulations contained herein, and further subject to the enactment of an ordinance by the municipality's governing body approving the municipality's participation in the Board of Appeals and provided such additional municipality enters into the Intergovernmental Agreement, as amended. Such new Members to the Board of Appeals shall pay an initial membership fee of \$1,250.00, which shall be due within thirty (30) days of the vote of the Members admitting the new municipality to the Board of Appeals. Thereafter, such new Members shall pay the annual fee as set forth in section 4.3.

4.5 Withdrawal. Any Member may withdraw from the Board of Appeals at any time for any reason with thirty (30) days advanced written notice to the Board of Appeals. The withdrawing Member shall not be entitled to a refund of any portion of any fees paid to the Board of Appeals, and shall remain liable for its share of any costs, expenses or fees incurred and/or assessed prior to the date of withdrawal.

4.6 Removal. Any Member may be removed from the Board of Appeals upon the vote of at least two-thirds ($\frac{2}{3}$) of the Members for failure to pay the membership or annual fee, special assessments or for other good cause. Any Member removed pursuant to this section shall not be entitled to a refund of any portion of any fees paid to the Board of Appeals, and shall remain liable for its share of any costs, expenses or fees incurred and/or assessed prior to the date of removal.

4.7 Meetings. The Members shall meet at least once every Quarter, or more or less frequently as determined by the Executive Committee. Notice of meetings shall be mailed to each Member at least forty-five (45) days in advance of the meeting. A quorum shall consist of one representative from a majority of the Members. Transaction of business shall take place only if a quorum of Members is present at the meeting and such business shall be passed by no less than a majority of the said quorum.

4.7.1 Reorganizational Meeting. By January 31st of each year, the Members shall meet at a reorganizational meeting for the election of officers and any other matters that may properly come before the Members.

4.7.2 Budget Meeting. The Executive Committee shall present an annual budget to the Members on or before September 30th of each year and the governing body of each Member shall vote to approve or reject the budget on or before October 31st of the same year. In the event that the budget is not approved by a majority of the Member's governing bodies, the Executive Committee shall revise said budget in accordance with the comments from the Members. Until the new budget is approved by a majority of the Members, the prior year's budget shall remain in effect.

4.7.3 Special Meetings. Special meetings shall be called by the President. It shall be the duty of the President to call a special meeting only when requested to do so by a majority of the Members of the Board of Appeals. The Secretary shall notify all representatives of the Board of Appeals in writing not less than five (5) business days in advance of such special meeting.

4.8 Solicitor. The Executive Committee shall appoint a solicitor, who shall be the chief consultant of the Board of Appeals in all legal matters.

ARTICLE V

Committees

5.1 The Board of Appeals, by majority vote, may establish and terminate both standing and ad hoc committees to perform functions consistent with the objectives of the Board of Appeals. The chairperson and members of such committees shall be chosen by the President of the Board of Appeals with the approval of a majority of the voting Members.

5.1.1 Qualification Review Committee. There is hereby established a standing committee entitled, "Qualification Review Committee." The Qualification Review Committee shall consist of three (3) Members, one of which shall be from the Executive Committee and one of which shall be a building code official Member representative, where possible. The Qualification Review Committee shall review the qualifications of proposed Hearing Board members and shall determine the proposed Hearing Board member's eligibility for appointment as a Hearing Board member pursuant to section 6.1.1.

ARTICLE VI

Administration and Composition

6.1 Composition. The Composition of the Hearing Board shall be governed by all of the following:

6.1.1 A member of the Hearing 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, and training or experience as an inspector or plan reviewer.

6.1.2 A member of the Hearing Board holds office at the pleasure of the municipality's governing body.

6.1.3 A member of a municipality's governing body and its code administrators may not serve on any Hearing Board assigned to hear an appeal filed in that municipality.

6.1.4 A municipality may appoint a qualified person who resides outside of the municipality to the Hearing Board when it cannot find a person within the municipality who satisfies the requirements of 6.1.1.

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

6.3 The Hearing Board may not act upon appeals, requests for variances or requests for extensions of time relating to accessibility under the UCC. Such appeals must be filed with the Accessibility Advisory Board under 34 Pa. Code. §403.142.

6.4 All counsel and Solicitor fees incurred by the Board of Appeals pursuant to each appeal shall be paid exclusively by the affected Member; that is, by the municipality in which the appeal is filed.

6.5 Administration. The Board of Appeals shall schedule hearings and provide public notice of meetings in accordance with 65 Pa.C.S. §§701-716 (relating to the Sunshine Act).

6.5.1 An applicant may seek a variance or extension of time or appeal a building code official's decision by filing an application on a form provided by the Board of Appeals for that municipality. The application fee shall be \$1250.00 for all appeals and shall be paid at the time of the filing of the application for appeal. Payment shall be made to the "Western Chester County Regional UCC Board of Appeals." The application fee shall be a deposit toward the costs and expenses of the hearing and will be placed into an escrow account in the name of the Board of Appeals until the completion of all hearings associated with an appeal. The applicant shall file seven (7) complete sets of the application and all supporting documentation at the time of filing of the appeal. The applicant shall provide the name and address of all property owners adjacent to the affected property to the municipality in which the appeal is filed at the time of the filing of the appeal.

6.5.2 Any and all costs and expenses exceeding the application fee deposit, including but not limited to additional advertisement or notice, court reporter fees, and administrative fees, associated with any hearing or subsequent hearing for that application shall be borne exclusively by the applicant. The Board of Appeals shall invoice the applicant for any such additional costs and expenses. Any amount of any application fee deposit that exceeds the costs and expenses associated with an appeal shall be refunded to the applicant.

6.5.3 The postmark date or the date of personal service will establish the filing date of the appeal and the request for variance or extension of time.

6.5.4 Written notice of the hearing for an appeal shall be provided to all adjacent property owners by the Board of Appeals no more than thirty (30) and no less than seven (7) days in advance of the hearing date. Public notice of the hearing of an appeal shall be published in a newspaper of general circulation by the Board of Appeals at least once within thirty (30) days of the hearing and no less than seven (7) days in advance of the hearing. Public notice of the hearing shall be prepared by the Solicitor and shall be posted on the property by the building code official of the municipality in which the appeal was filed.

6.5.5 When an appeal is filed in a municipality, the building code official of that municipality shall time-stamp the appeal and forward it to the solicitor within ten (10) calendar days of receipt. Along with the appeal, the building code official shall also send to the solicitor any and all amendments to the UCC adopted by the municipality in which the appeal was filed. Within the same ten (10) days noted herein, the Member's representative to the Board of Appeals from the municipality in which the appeal was filed shall notify the solicitor of the individual being appointed as Chair of the Hearing Board for said appeal.

6.5.6 The Hearing Board shall be comprised of five (5) individuals and, after the appointment of the Chair of the Hearing Board for an appeal is chosen, the balance of the Hearing Board will be selected from an alphabetical list of appointed Hearing Board individuals with no more than three (3) Hearing Board individuals being from any one Member. All individuals selected to sit on a Hearing Board for an appeal will complete a conflict questionnaire and shall promptly notify the solicitor of any conflicts with the appeal.

6.5.7 An appeal or request for variance or extension of time to the Board of Appeals will automatically suspend an action to enforce an order to correct until the matter is resolved. An action under 34 Pa. Code §403.84 (relating to unsafe buildings, structures or equipment) may not be stayed.

6.5.8 The Hearing Board shall decide an appeal, variance or request for extension of time by reviewing documents and written brief or argument unless the applicant requests a hearing. The Hearing Board shall hold a hearing within sixty (60) days from the date of an applicant's request unless the applicant agreed in writing to an extension of time. In the case of an appeal or request for variance or extension of time involving the construction of a one-family or two-family residential building, the Hearing Board shall convene a hearing within thirty (30) days of the appeal. The solicitor shall send notice to the applicant of the date of the hearing and the individuals comprising the Hearing Board for the appeal.

6.5.9 The hearing on the appeal shall occur within the municipality in which the appeal was filed. The solicitor shall attend all hearings and shall write the decision of the Hearing Board. It shall be within the Hearing Board's discretion whether to cast a vote on the appeal immediately following the hearing or to schedule another hearing to vote on the appeal, although the Hearing Board is strongly encouraged to render a decision as quickly as possible.

6.5.10 The Hearing Board shall render a written decision to the parties within five (5) business days of the last hearing. If the Hearing Board fails to act within the time period prescribed under this paragraph, the appeal shall be deemed granted. The Hearing Board shall provide a written notice of its decision to the owner and to the building code official.

6.5.11 When considering an appeal, the Hearing Board may take the following action: (1) deny the request in whole or in part; (2) grant the request in whole or in part; or (3) grant the request upon certain conditions being satisfied.

6.6 Factors for consideration.

6.6.1 The Hearing Board shall only consider the following factors when deciding an appeal under 35 P.S. §7210.501(c)(2) of the Construction Code Act: (1) the true intent of the Construction Code Act or that the UCC was incorrectly interpreted; (2) the provisions of the Construction Code Act do not apply; or (3) an equivalent form of construction is to be used.

6.6.2 The Hearing Board may consider the following factors when ruling upon a request for extension of time or the request for variance: (1) the reasonableness of the UCC's application in a particular case; (2) the extent to which the granting or an extension of time will pose a violation of the UCC or an unsafe condition; (3) the availability of professional or technical personnel needed to come into compliance; (4) the availability of materials and equipment needed to come into compliance; (5) the efforts being made to come into compliance as quickly as possible; and (6) compensatory features that will provide an equivalent degree of protection to the UCC.

ARTICLE VII
General Provisions

7.1 Robert's Rules of Order. Robert's Rules of Order shall govern all matters not covered by these By-Laws.

7.2 Order of Business. The order of business at regular meetings shall be as follows:

- A. Call to Order and Recording of Attendance;
- B. Review and Approval of Minutes of Prior Meeting;
- C. Treasurer's Report;
- D. Announcements;
- E. Old Business;
- F. New Business;
- G. Adjournment.

7.3 Non-discrimination. The Board of Appeals shall not discriminate against any person or group of persons because of sex, age, race, creed, handicap, religion, sexual preference, political affiliation or national origin.

7.4 Waiver of Notice. Whenever any written notice is required to be given by statute or these By-Laws, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated herein, shall be deemed the equivalent of the giving of such notice. Neither the business to be transacted by the Board of Appeals nor the purpose of the meeting need to be specified in the waiver of notice of such meeting. Attendance of a person at any meeting shall constitute a waiver of notice of such meeting, except where a person attends a meeting for the express purpose of objecting to the transaction of any business at the beginning of the meeting, because the meeting was not lawfully called or convened.

7.5 Headings and Pronouns. The headings herein are for reference purposes only and shall not affect the meaning or interpretation of these By-Laws. When the context hereof so requires, use of one gender includes the other genders, use of the singular includes the plural, and vice versa.

7.6 Authority to Enter Into Contracts or Policies of Group Insurance and Employee Benefits. The Board of Appeals is empowered to enter into contracts for policies of group insurance and employee benefits including Social Security for any employees of the Board of Appeals. No such employees are anticipated by the Members and a majority of the Members must first vote to hire any such employees and approve any such contracts.

ARTICLE VIII

Amendments

8.1 These By-Laws may be amended by a two-thirds ($\frac{2}{3}$) vote of the Members, provided notice of the proposed amendment(s) is sent to each Member at least ten (10) business days before the meeting at which time it is considered.

ATTEST:
