

2013-1
ORDINANCE NO. _____-2013

LOWER OXFORD TOWNSHIP

AN ORDINANCE ENACTED PURSUANT TO THE TERMS OF THE INTERGOVERNMENTAL COOPERATION ACT, 53 Pa.C.S.A. § 2301, *ET SEQ.*, AUTHORIZING THE BOARD OF SUPERVISORS/ COUNCIL TO ENTER INTO AN INTERGOVERNMENTAL COOPERATIVE IMPLEMENTATION AGREEMENT BETWEEN THE BOROUGH OF OXFORD AND THE TOWNSHIPS OF ELK, LOWER OXFORD, UPPER OXFORD, AND WEST NOTTINGHAM, CHESTER COUNTY, PENNSYLVANIA FOR THE PURPOSE OF IMPLEMENTING THE POLICIES OF THE OXFORD REGION MULTIMUNICIPAL COMPREHENSIVE PLAN AND OTHER COMMITMENTS AND BENEFITS UNDER THE TERMS OF THE AGREEMENT.

SECTION I. Statement of Purpose. The purpose of this Ordinance is to authorize the entering into of an Intergovernmental Cooperative Implementation Agreement (“Agreement”) with the Borough of Oxford and the Townships of Elk, Lower Oxford, Upper Oxford, and West Nottingham, Chester County, Pennsylvania (“Agreement”) for the purpose of implementing the Policies of the Oxford Region Multimunicipal Comprehensive Plan (“Plan”) and establishing other commitments and benefits under the terms of the Agreement. A true and correct copy of the Agreement is attached hereto as Exhibit “A” and incorporated herein by reference as if fully set forth herein.

SECTION II. Duration. The term of the Agreement is indefinite subject to the right of any participating member to withdraw under the terms as specified in Section V of the Oxford Region Planning Committee By-laws (“By-laws”).

SECTION III. Objectives of the Agreement. The objective of the Agreement is to establish the Oxford Region Planning Committee (“ORPC”) as an advisory body to the participating member municipalities and define its responsibilities as set forth in this Agreement; and to support the Region’s goals and objectives as described and adopted in the Plan. These goals and objectives are intended to guide and shape new growth and development in the Region for the twenty-year planning period and are incorporated herein by reference.

SECTION IV. Funding. Funding shall be in accordance with Section XII – Finances of the Agreement.

SECTION V. Organizational Structure/Membership. Membership in the ORPC shall be in accordance with Section I – Oxford Region Planning Committee (ORPC) Membership of the By-laws.

SECTION VI. Manner In Which Real or Personal Property Shall Be Acquired, Managed, Licensed or Disposed Of. The ORPC is not authorized by the Agreement to purchase real property. If the ORPC purchases personal property, it shall take title to such personal property in the name of ORPC, unless otherwise agreed to by the members. Upon termination of the Agreement, any personal property owned by the ORPC shall be distributed to the members or

sold and the proceeds distributed to the members, as determined by the members. All other matters pertaining to the acquisition, management, licensing or disposal of personal property by the ORPC shall be decided by a majority vote of the members.

SECTION VII. Authority to Enter Into Contracts or Policies of Group Insurance and Employee Benefits. The ORPC is empowered to enter into contracts for policies of group insurance and employee benefits including Social Security for any employees of the ORPC. 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.

SECTION VIII. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the municipality that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION IX. Repealer. All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed as far as the same affects this ordinance.

SECTION X. Effective Date. This Ordinance shall become effective upon enactment as by law provided.

ENACTED AND ORDAINED this 24th day of July, 2013.

BOARD OF SUPERVISORS
LOWER OXFORD TOWNSHIP

Kenneth L. Hershey
Kenneth L. Hershey, Chairman

W. Ronald Kepler
W. Ronald Kepler, Vice Chairman

Absent
W. Ralph Cheek, Member

Attest:

Sara B. Laganelli
Sara B. Laganelli, Secretary



Oxford Region

AN INTERGOVERNMENTAL COOPERATIVE IMPLEMENTATION AGREEMENT FOR THE OXFORD REGION

THIS INTERGOVERNMENTAL COOPERATIVE IMPLEMENTATION AGREEMENT is made this _____ day of _____, 2013, by and between the Borough of Oxford and the townships of Elk, Lower Oxford, Upper Oxford, and West Nottingham, Chester County, Pennsylvania

SECTION I: AUTHORIZATION

The following Intergovernmental Cooperative Implementation Agreement ("Agreement") is authorized by, and conforms to, Article III and Article XI of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as reenacted and amended, 53 P.S. §10101 et seq., and Chapter 23, Subchapter A (relating to intergovernmental cooperation) of the General Local Government Code, 53 Pa. C.S. §2301 et seq. The terms of this Agreement shall replace and succeed the Oxford Region Intergovernmental Cooperative Planning Agreement.

SECTION II: PURPOSE

The purpose of this Implementation Agreement is as follows:

- A. To support the Region's goals and objectives as described and adopted in the Oxford Region Multimunicipal Comprehensive Plan. These goals and objectives are intended to guide and shape new growth and development in the Region for the twenty year planning period and are incorporated here by reference.
- B. To establish the Oxford Region Planning Committee (ORPC) as an advisory body to the participating members and define its responsibilities as set forth in this Implementation Agreement.

SECTION III: DEFINITIONS

- A. **Consistency** – That which exhibits agreement or correspondence between matters being compared which denotes reasonable, rational, similar, connection or relationship.
- B. **Development of Regional Significance and Impact** - A subdivision or land development that, because of its character, magnitude, or location, will have substantial effect upon the health, safety, or welfare of citizens in the Region's municipalities. (MPC) Any subdivision or land development proposal (whether submitted as a formal application, sketch plan, as part of a conditional use or special exception application, or as part of a variance application) will be considered a development of regional significance and impact if it meets or exceeds any of the following:
 - 1. Residential: ≥100 new lots or units.

2. Non-Residential: $\geq 75,000$ square feet of floor space.
 3. Any development generating more than 250 peak hour trips per day.
 4. Any development that proposes ≥ 300 parking spaces.
 5. Any other proposed subdivision or land development, which in the opinion of the governing body of the municipality in which it is proposed, could have a regional impact or an impact beyond the boundaries of that municipality and for which that municipality desires input from the ORPC.
 6. The ORPC may request that a development not meeting the above criteria be submitted for their review. Compliance with this request shall be at the discretion of the municipality in which the development is located.
- C. **General Consistency; Generally Consistent** – That which exhibits consistency. In its application within the Oxford Region when considering subdivisions, land developments, zoning and/or subdivision and land development ordinance changes, or any other matter deemed to have regional impact, generally consistent shall be interpreted as that which conforms to the goals and objectives stated in the Multimunicipal Plan. Specifically, a proposed land use action shall be considered generally consistent with the Multimunicipal Plan when the regulation, amendment, or action:
1. Furthers, or at least does not interfere with, the goals and objectives contained in the Multimunicipal Plan; and
 2. Is compatible with the future land uses and densities and/or intensities contained in the Multimunicipal Plan. Densities are not required to be identical to the ranges contained in the Multimunicipal Plan, but the overall intent of the land use action should be compatible with the intent of the Multimunicipal Plan; and
 3. Carries out or supports other specific implementation actions recommended by the Multimunicipal Plan.
- D. **Pennsylvania Municipalities Planning Code (MPC)** – Act of 1968, P.L. 805 No. 247 as reenacted and amended.
- E. **Oxford Region (Region)** – The Oxford Region is comprised of the Borough of Oxford and the townships of East Nottingham, Elk, Lower Oxford, Upper Oxford, and West Nottingham.
- F. **Oxford Region Multimunicipal Comprehensive Plan (Multimunicipal Plan)** – The Oxford Region Multimunicipal Comprehensive Plan, including all amendments and supplements thereto, and any new plan substituted therefore, as in force at the time of application under this Agreement.
- G. **Oxford Region Planning Committee (ORPC)** – A planning committee charged with carrying out the provisions of this Implementation Agreement on behalf of the participating members of the Oxford Region. Planning Committee members are appointed by the governing bodies of each municipality consistent with the membership criteria of the Oxford Region Planning Committee By-laws.

H. **Participating Members** -Participating members of the ORPC shall include the municipalities that have adopted this Implementation Agreement.

SECTION IV: MUNICIPAL PLANNING COMMISSIONS

Each of the Oxford Region's participating members shall retain their own municipal planning commission. The authority and functions of each planning commission are not modified by this Agreement.

SECTION V: MUNICIPAL ZONING HEARING BOARDS

Each municipality shall retain its individual zoning hearing board. The authority and functions of each zoning hearing board are not modified by this Agreement.

SECTION VI: OXFORD REGION MULTIMUNICIPAL COMPREHENSIVE PLAN

- A. **Plan Adoption:** The adopted Multimunicipal Plan shall serve as the guide for future growth in the Region and each municipality's land use planning decisions shall be guided by the Multimunicipal Plan and its goals and objectives.
- B. **Municipal Comprehensive Plan Consistency.** Any municipality of the Oxford Region that retains or develops its own municipal comprehensive plan shall be responsible to maintain the general consistency of the municipal plan with the Multimunicipal Plan.
- C. **Plan Interpretation:** The participating members agree to duly consider the opinions and recommendations made by the ORPC on all matters pertaining to the interpretation of the Multimunicipal Plan. Except as otherwise specifically provided in this Agreement, it is understood that any opinion or recommendation rendered by the ORPC shall be advisory only.

SECTION VII: MUNICIPAL ZONING

- A. **Municipal Zoning Ordinance and Map.** Each municipality shall retain and administer its own individual zoning ordinance (code) and zoning map. Subject to the requirements for review by the ORPC as set forth in Section IX below, any municipality may revise its zoning map or amend its zoning ordinance.
- B. **Transfer of Development Rights.** Two (2) or more member municipalities may voluntarily choose to participate in a transfer of development rights (TDR) program thereby allowing the transfer of development rights across municipal borders within the Region. A separate Intermunicipal TDR Agreement will be necessary to participate in a multi-municipal TDR Program.

SECTION VIII: OXFORD REGION PLANNING COMMITTEE (ORPC)

- A. **ORPC Organization:** The Oxford Region Planning Committee organization, membership, and meetings shall be as established in the Oxford Region Planning Committee By-laws.
- B. **ORPC Responsibilities:** The ORPC is responsible for carrying out the provisions of this Implementation Agreement and the interpretation and implementation of the goals, objectives, and recommendations identified in the Multimunicipal Plan.

- C. Specific duties of the ORPC as established in the following sections of the Implementation Agreement include:
1. Review of and updates to the multimunicipal plan (Section XI).
 2. Advisory reviews of developments of regional significance and impact as defined in this Implementation Agreement (Section X).
 3. Consistency reviews of proposed municipal zoning and subdivision and land development ordinance amendments when such amendments affect use or density (Section IX).
- D. **Decision Making:** Actions taken by the ORPC shall be by simple majority vote of the participating members in accordance with Section III of the Oxford Region Planning Committee By-laws.

SECTION IX: CONSISTENCY REVIEW PROCESS FOR ORDINANCE AMENDMENTS

- A. **Initial Ordinance Consistency Review:** Each participating member has taken part in an initial review of its zoning ordinance and/or map and subdivision and land development ordinance to determine their general consistency with the Multimunicipal Plan, as defined in Section III, and the ordinances have been determined to be consistent by the ORPC.
- B. **Future Ordinance or Zoning Map Amendments.** Except as provided below, future proposed zoning text amendments, or zoning map changes, or subdivision and land development ordinance changes that affect use or density, shall be sent to the ORPC for review and comment in compliance with the following process:
1. Submittal: Proposed ordinance or map amendments affecting a change in standards regulating use, residential density, or non-residential intensity shall be sent to the ORPC for review and comment.
 2. Municipal Ordinance Adoption: No ordinance text amendment or zoning map amendment affecting a change in standards regulating use, residential density, or non-residential intensity shall be adopted by a municipality until the ORPC has advised the municipality whether the proposal is generally consistent (as defined in Section III) with the stated goals and objectives of the Multimunicipal Plan.
 3. General Consistency Determination and Review: Following the submission of any proposed ordinance or map amendment, the ORPC shall determine if the amendment is generally consistent with the Multimunicipal Plan.
- C. **Procedure for Consistent Amendments:** Where the ORPC has determined the proposed ordinance or map amendment is generally consistent with the Multimunicipal Plan, written notice shall be provided to the Manager or Secretary of the municipality submitting the proposal so that the municipality may proceed with adoption of the proposed zoning ordinance or map amendment.
- D. **Procedure for Inconsistent Amendments:** Where the ORPC has determined the proposed zoning ordinance or map amendment is not generally consistent with the Multimunicipal Plan, the ORPC shall notify the Manager or Secretary of the municipality submitting the proposal of the determination by the ORPC.

1. The notice shall be in writing and include a statement of the identified inconsistency(ies) and an indication of what change could be made to the proposal to eliminate the conflict.
 2. Upon receipt of notification, the municipality submitting the proposal may:
 - a. Modify the proposed ordinance or map amendment to eliminate the inconsistency(ies) and resubmit the proposal under the procedure set forth in this Agreement,
 - b. Initiate a request to amend the Multimunicipal Plan in accordance with Section XI, or
 - c. Submit a request for dispute resolution as provided for in this Agreement.
- E. **Failure to Act:** If the ORPC fails to act on any proposed ordinance or ordinance amendment within forty-five (45) days of the date it is submitted to the ORPC, the ordinance or ordinance amendment shall be deemed to be generally consistent with the Multimunicipal Plan and the submitting municipality may proceed with action.

SECTION X: REVIEW OF DEVELOPMENTS OF REGIONAL SIGNIFICANCE AND IMPACT

- A. **Subdivision, Land Development Review Role:** Proposals for a development of regional significance and impact (as defined in Section III) shall be brought before the ORPC for review and comment.
1. **Submittal and Review Process:** It shall be the responsibility of the municipality where the application/development is located to direct the applicant/developer to forward to the ORPC for review and comment any subdivision or land development proposal (whether submitted as a formal application, sketch plan, as part of a conditional use or special exception application, or as part of a variance application). The power to approve or reject a development of regional significance and impact shall be exercised only by the municipality where the property, for which the approval is sought, is located. (MPC Section 1104.b.2.)
 2. Review comments are advisory only and shall be directed to the Manager or Secretary of the municipality submitting the plans, application or proposal for distribution to the appropriate governing and advisory bodies of that municipality, consistent with the municipality's review process. Review comments submitted by the ORPC shall be maintained by the municipality in which the proposed subdivision or land development is located.
 3. Proposals for developments of regional significance and impact shall be forwarded to the ORPC within five (5) days of their submittal to the municipality to allow for review and comment within the time-frame specified by the MPC. A review by the ORPC shall not exceed this time-frame unless an extension is granted by the municipality where the application is located and the applicant who submitted the plan. (MPC Section 1104.b.2.)
 4. In reviewing developments of regional significance and impact, the ORPC shall only consider the general consistency of the proposal as it relates to the guidelines for land use and density set forth in the adopted Multimunicipal Plan.

5. The absence of a response by the ORPC to a submitted development of regional significance and impact shall constitute neither an endorsement of nor opposition to the submitted plan, but shall be considered as “no comment.”

SECTION XI: AMENDMENT OF THE MULTIMUNICIPAL COMPREHENSIVE PLAN

It is the responsibility of the ORPC to update, revise, and prepare amendments to the Multimunicipal Plan, as well as redefining any designated growth area, future growth area, or resource protection area within the Multimunicipal Plan, consistent with the following:

- A. **Multimunicipal Plan Review.** At a minimum, the ORPC shall undertake a review of the Multimunicipal Plan on a schedule pursuant to Article III of the MPC, and shall update the Multimunicipal Plan as the result of such review may indicate.
- B. **Requests for Multimunicipal Comprehensive Plan Amendment.** A request to amend the Multimunicipal Plan may be made by a participating member at any time, consistent with the following:
 1. Requests for a Multimunicipal Plan amendment shall include a summary of the change requested, and the supporting rationale for the proposed change.
 2. Upon the request of a participating member or members, the ORPC shall prepare an amendment to the Multimunicipal Plan if deemed appropriate.
- C. Adoption of proposed updates or amendments to the Multimunicipal Plan shall be in accordance with the applicable provisions of the MPC.
- D. **General Consistency of Municipal Plans and Ordinances with Amended or Updated Plan.** If deemed necessary by the ORPC, within two (2) years from the date on which the amendment or update to the Plan is effective, each municipality agrees to perform a review of its zoning ordinances and maps and subdivision and land development ordinances to determine their general consistency with the amended Multimunicipal Plan and agrees to resolve any lack of general consistency as provided in the MPC and in particular Section 1104(b)(1) thereof.

SECTION XII: FINANCES

- A. **Annual Regional Contribution:** The governing body of each participating member shall contribute two-hundred dollars (\$200.00) annually, to be paid by January 31st of each calendar year and deposited in the joint banking account established for the Region. These contributions shall be utilized for the operating funds for the ORPC to be applied toward mutually agreed upon expenses including but not limited to administrative fees and public notice (advertising) costs. The annual contribution may be adjusted by unanimous vote of the governing bodies of each of the participating members to reflect the actual expenditures per year, including the addition of special projects or for consultant fees, when approved by all governing bodies. In addition, the participating members may choose to establish an annual fee to be set aside for use in future updates of the Multimunicipal Plan.

- B. **Annual Budget:** Within the limits imposed upon it by the funds available for its use, the ORPC shall prepare an annual budget for disbursement of such funds. Said budget shall be completed and approved unanimously by the Planning Committee by October 31st of the preceding year.

SECTION XIII: DISPUTE RESOLUTION

- A. In the event that a dispute arises between a participating member and the ORPC with respect to 1) the interpretation of the Multimunicipal Plan, 2) the advisability of any proposed amendment, or 3) an amendment to a local ordinance that is subject to regional review, the participating members agree to use best efforts to resolve such dispute, whether by direct negotiation among the participating members or, if approved by the disputing parties, mediation.
- B. If a dispute cannot be resolved, the ORPC members shall determine by a simple majority vote of the participating members the final course of action, which may include requesting that the disputing member municipality withdraw from the Region. Prior to such a vote, the disputing member municipality may also withdraw voluntarily from the Region. In both cases, the withdrawal procedure established in the Oxford Region Planning Committee By-laws shall apply.

SECTION XIV: ANNUAL REPORT

The ORPC is responsible for preparing an annual report concerning activities carried out during the previous year per the requirements of Section 1104(b)(4) of the MPC.

SECTION XV. EFFECTIVE DATE

This Agreement shall become effective immediately upon the signature of all participating members.

SECTION XVI. TERM

This Agreement shall be indefinite in term subject to the right of any participating member to withdraw under the terms as specified in Section V of the Oxford Region Planning Committee By-laws.

SECTION XVII. ENDORSEMENTS

The undersigned parties approve and agree to the conditions of this Intergovernmental Cooperative Implementation Agreement: