

ORDINANCE NO. 193

AN ORDINANCE OF THE TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA, AMENDING CHAPTER I, "ADMINISTRATION AND GOVERNMENT" BY ADDING A NEW PART 7, AUTHORIZING THE TOWNSHIP TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR THE PURPOSE OF JOINING WITH OTHER POLITICAL SUBDIVISIONS AS A MEMBER OF A LOCAL EMERGENCY MANAGEMENT AGENCY TO BE KNOWN AS THE NORTH CENTRAL BERKS REGIONAL EMERGENCY MANAGEMENT AGENCY.

BE IT ENACTED and ORDAINED by the Board of Supervisors of the Township of Tilden, Berks County, Pennsylvania and it is hereby enacted and ordained by the authority of the same as follows:

SECTION 1. Chapter I, entitled "Administration and Government", of the Code of Ordinances of the Township of Tilden, is hereby amended by adding thereto the following new part:

"PART 7

North Central Berks Regional Emergency Management Agency

Section 701. Purpose. A local emergency management agency comprised of various Berks County municipalities is established to provide the residents and citizens of the respective municipalities and communities with more efficient, responsive, cost effective and competent emergency management services consistent with the requirements of the Pennsylvania Emergency Management Services Code and with the objectives of protecting the health, safety and welfare of municipal residents and landowners. The regional emergency management agency shall assume the responsibilities and functions assigned by law to each participating municipality with respect to the preparation, implementation and maintenance of a joint emergency operations plan ("Joint Plan").

Section 702. Grant of Power. This Ordinance is adopted pursuant to authority granted in:

- (a) The Pennsylvania Emergency Management Services Code, Act 323 of November 26, 1978 (35 Pa. C.S. §7101, et seq.) as amended, or as it may be amended from time to time;

(b) The Pennsylvania Intergovernmental Cooperation Act, Act 177 of 1998 (53 Pa. C.S. §2301, et seq.) as amended, or as it may be amended from time to time.

Section 703. Definitions. The following words or phrases, when used in this Part, shall have the meanings indicated:

Code - the Pennsylvania Emergency Management Services Code, Act 323 of November 26, 1978 (35 Pa. C.S. §7101, et seq.) as amended, or as it may be amended from time to time.

Agency - the North Central Berks Regional Emergency Management Agency created by various Berks County municipalities under and pursuant to this and similar ordinances under authority of the Code.

Municipality - the Township of Tilden.

Section 704. Participation in Agency. Pursuant to and in accord with the above-referenced authority, the Municipality is hereby authorized to become a member of and to participate in the Agency, and hereby delegates to the Agency its responsibilities under the Code with respect to the preparation, implementation and maintenance of a Joint Plan in accordance with the authority granted in the above-referenced laws and this Part.

Section 705. Authority to Enter Agreement. Pursuant to and in accord with the above-referenced authority, the Municipality is hereby authorized and directed to enter into the intergovernmental cooperation agreement which governs the Agency and its affairs, a copy of which is attached to this Part and incorporated herein by reference (the "Agreement").

Section 706. Organization. The Agency created and existing under and by virtue of the authority of the Code and this Part shall be comprised of representatives of the municipalities creating and participating in the Agency. The participation of the Municipality in the Agency shall be governed and controlled by the terms and conditions of the Agreement, as it may be amended from time to time, the provisions of applicable Pennsylvania laws and regulations, and such other policies as may be duly adopted by the Agency in accordance with the Agreement.

Section 707. Finances. The Agency and its activities shall be operated with funds provided by the participating municipalities in accordance with the provisions of the Agreement referred to above, and such other grants or funding

as may be available.

Section 708. Term. The Agency, and the Agreement governing it, shall be for an indefinite term and dependent upon the continued participation of the various member municipalities. Participating municipalities can withdraw from the Agency upon reasonable notice as provided for in the Agreement.

Section 709. Municipality Participation.

(a) The governing body of the Municipality shall appoint its emergency management coordinator and its deputy coordinator to serve on the Agency Council.

(b) The governing body of the Municipality shall authorize, budget, appropriate such funds as are necessary to provide the Agency with fiscal resources for its operational requirements.

(c) Municipal officials and employees shall cooperate fully with the Agency to accomplish the goals and objectives of the Agency.

Section 710. Agency Powers and Duties. The powers and duties of the Agency, its officials and representatives, shall be as set forth in this Part, the Agreement and the other laws, regulations and instruments governing its organization and operation and shall include the following:

(a) Subject to review and approval of each participating municipality, the Agency shall prepare and maintain the Joint Plan that can be implemented for response to emergencies affecting the participating municipalities.

(b) Subject to review and approval of each participating municipality, the Agency shall be responsible for planning and resource development for emergency operations within the territorial limits of the participating municipalities.

Section 711. Property. All property shall be acquired, managed, or disposed of pursuant to the Agreement in accordance with the terms of the Agreement. No acquisition of real property or real estate is authorized.

Section 712. Agency Employees. There will be no Agency employees."

SECTION 2. 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 of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of the Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 3. All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance.

SECTION 4. This Ordinance shall become effective in accordance with law.

SECTION 5. The Code of Ordinances of the Township of Tilden, Berks County, Pennsylvania, as amended, shall be and remain unchanged and in full force and effect except as amended, supplemented and modified by this Ordinance. This Ordinance shall become a part of the Code of Ordinances of the Township of Tilden, Berks County, Pennsylvania, as amended, upon adoption.

DULY ENACTED AND ORDAINED this 6th day of June, 2009.

TOWNSHIP OF TILDEN
BOARD OF SUPERVISORS

Russell H. Weir
Judy E. Romig
Troy R. Hall

Attest: Stacy L. Degler
Secretary

**NORTH CENTRAL BERKS REGIONAL
EMERGENCY MANAGEMENT AGENCY AGREEMENT**

THIS AGREEMENT is made this 13th day of July, 2009 by and among the following municipalities located in Berks County, Pennsylvania and existing by virtue of the various municipal laws of Pennsylvania (the "Agency Members") on the dates indicated below pursuant to the authority granted by the Ordinance referred to:

| Name and Address of Municipal Party | Date Agreement Signed | Ordinance No. and Date |
|--|--------------------------|------------------------|
|--|--------------------------|------------------------|

Borough of Hamburg
61 North 3rd Street
Hamburg, PA 19526

Township of Tilden
874 Hex Highway
Hamburg, PA 19526

Township of Windsor
730 Monument Road
Hamburg, PA 19526

NOW, THEREFORE, in consideration of the mutual promises, covenants and undertakings herein contained, and intending to be legally bound hereby, the Agency Members mutually agree as follows:

1. Formation of Regional Emergency Management Agency. The Agency Members hereby agree to the formation and establishment of a Regional Emergency Management Agency named the North Central Berks Regional Emergency Management Agency (the "Agency") as authorized by the Pennsylvania Emergency Management Services Code, Act 323 of November 26, 1978, as amended (35 Pa. C.S. §7101, et seq.) (the "Code"), the Pennsylvania Intergovernmental Cooperation Act, Act 177 of 1998 (53 Pa. C.S. §2301, et seq.), and the Ordinances of the respective municipalities as referred to above, which Agency shall have the powers and duties as provided in the above-referenced Ordinances and this Agreement, consistent with the authority of the Code and other applicable laws. Agency Members agree and pledge each to the other, good faith cooperation in the exercise of the powers, duties and functions of the Agency.

2. Purpose. The purpose of this Agency is to carry out the powers and duties of political subdivisions as set forth in the Code, 35 Pa. C.S. §7103.

3. Membership. To become and remain an Agency Member, a municipality shall adopt and retain in effect an ordinance authorizing Agency membership in the form of the Ordinances referred to above, properly authorize and execute this Agreement and comply with all requirements of said Ordinances, this Agreement and other properly adopted policies.

4. Termination. An Agency Member shall remain as a member of the Agency for at least three (3) years commencing on the date of enactment of the last Ordinance authorizing execution of the Agreement. Thereafter, an Agency Member may withdraw from the Agency after (i) sending at least thirty (30) days' prior written notice of its withdrawal to the other Agency Members, and (ii) the acceptance by the Berks County Emergency Management Coordinator of a stand alone Emergency Operations Plan for such municipality. Upon complete termination from the Agency, either through written notice as set forth above or as a result of the breach of this Agreement by an Agency Member, the Agency Member forfeits its right to any and all services of the Agency.

5. Organization – Agency Council.

A. Governance. The Agency shall be governed by a council (the "Council") consisting of each Agency Member's emergency management coordinator and deputy coordinator (the "Members").

B. Duties and Responsibilities. The Council shall carry out the business of the Agency and perform the necessary functions and exercise the stated powers of the Agency to meet the objectives of the Agency consistent with the governing laws, ordinances and this Agreement. The Council shall have planning and resource development responsibilities for emergency operations within the territorial limits of the respective Agency Members. The Joint Plan shall be adopted by the individual Agency Members.

C. Committees. The Council shall have the right to establish various committees from time to time from among the members of the Council and/or other municipal staff, to assist with the conduct of Agency business. The Council shall appoint members to committees. Each committee will function until such time as its intended purpose is achieved or until dissolved by Council.

6. Meetings. The Council shall conduct regularly scheduled meetings including an organizational meeting to be held in January, and at least one other meeting in each calendar quarter of each year. Times and places of meetings are to be determined by the Council. Notice of the time and place of all regular meetings shall be published annually. Any Council Member may call a special meeting. Notice of all special meetings shall be advertised at least twenty-four (24) hours prior to the meeting time, in accordance with the Pennsylvania Sunshine Law and the Council members and municipalities shall be notified. A quorum for meetings of the Council shall consist of a simple majority of the members of the Council. In determining the number necessary to constitute a quorum, vacant positions on the Council shall not be included. In the event of a tie vote by Council on any issue, the County Emergency Management Coordinator shall cast the deciding vote to break the tie. Unless otherwise indicated herein, Robert's Rules of Order, Revised, shall cover all proceedings of the Council.

7. Joint Plan. The Agency shall assume the responsibilities and functions of each individual emergency management agency of the Agency Members by preparing, implementing and maintaining a joint emergency operations plan (the "Joint Plan") to be implemented for response to emergencies affecting the Agency Members. The Joint Plan shall be consistent with

the respective emergency operations plans of Berks County and the Commonwealth of Pennsylvania. Each Member shall be responsible for emergency services in his or her respective municipality and will assist in the other Agency Members upon request on an as needed basis. If two or more Agency Members are affected by the same emergency situation, Members shall be subject to the direction and control of the elected officials of the County of Berks as required by the Code.

8. Budget and Finance.

A. Finances. Each Agency Member agrees to supply the resources and personnel necessary to effectively operate the Agency and to otherwise assist the Agency in carrying out its responsibilities and duties to the residents of each of the Agency Members. Each Agency shall be responsible for its own expenses in complying with the terms of this Agreement.

B. Purchases and Contracts. The Agency is not authorized to acquire any property.

C. Response Expenses. The Agency shall have no responsibility for expenses for services and materials necessary to respond to an emergency situation in any Agency Member. Those expenses shall be the responsibility of the affected municipality, responding organization or affected persons as the case may be.

D. Fiscal Year. The fiscal year of the Council shall be January 1 to December 31.

9. Insurance, Waiver and Indemnity. Each Agency Member shall obtain appropriate policies of insurance providing coverage for the activities of the Agency, the Council and its Members under this Agreement. Such policies shall contain a waiver of subrogation clause or endorsement under which the insurance company waives its right of subrogation against each Agency Member as to any and all causes of action or claims that may arise out of the activities of the Agency hereunder, provided that coverage containing such waiver of subrogation remains available. Each Agency Member hereby waives any and all claims against all other Agency Members and against the Agency, the Council and its Members which may arise out of the activities of the Agency while rendering services under this Agreement. For purposes of liability not covered by insurance protection, in actions arising out of this Agreement, the Agency Member(s) whose official or employee's action or inaction gives rise to such uncovered liability shall be solely or proportionately, as the case may be, liable for judgments rendered against any such Agency Member in connection with services rendered to any Agency Member by the Agency or against the Agency for services provided to an Agency Member. The proportion of liability shall be equally divided among all implicated Agency Members at the time that the services in question were rendered. The implicated Agency Members hereby agree to indemnify and hold harmless all other Agency Members from any and all claims by third parties, suits, damages and losses, including costs and expenses and attorneys' fees incident to or rendering from any injury to any person or any damage to any property which may arise out of the implicated Agency Members' rendering of services under this Agreement.

10. Operational Location. The Agency shall operate out of the facilities of an Agency Member as agreed from time to time by the Agency Members.

11. Immunity. The services performed and the expenditures incurred under this Agreement shall be deemed for public and governmental purposes, and all immunities from liabilities enjoyed by the Agency Members within their respective boundaries shall extend to their participation in services outside their respective boundaries and within the geographical area served by the Agency.

12. Parties. Additional municipalities may become parties to this Agreement upon acceptance and execution of a joinder to this Agreement and upon approval by the governing bodies of the Agency Members already parties to this Agreement.

13. Invalidity. The invalidity, illegality or unconstitutionality of any portion of this Agreement shall not impair or affect the invalidity of this Agreement as a whole or any other part thereof.

14. Successors. This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

15. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania.

BOROUGH OF HAMBURG

By: Martha E. Bertollet

Attest: Lynette H. Albright

TOWNSHIP OF TILDEN

By: Russell H. Wark

Attest: Cheryl A. Haus

TOWNSHIP OF WINDSOR

By: David A. Mazurke

Attest: Craig A. Song

CERTIFICATION

The undersigned, Solicitors for the Borough of Hamburg, hereby certify that attached hereto is a true and correct copy of proposed Ordinance No. 766-09 of the Borough.

MASANO ♦ BRADLEY, LLP

Dated: June 15, 2009

By: 
Michael J. Gombár, Jr., Esquire