

TOWNSHIP OF BENNER
CENTRE COUNTY, PENNSYLVANIA

ORDINANCE NO. 91

**AN ORDINANCE OF THE TOWNSHIP OF BENNER TO
ADOPT THE NITTANY VALLEY REGIONAL
COMPREHENSIVE PLAN IMPLEMENTATION AGREEMENT
AND TO ABIDE BY ITS TERMS**

WHEREAS, the Township of Benner is a second class Township under the rules and regulations of the Commonwealth of Pennsylvania; and

WHEREAS, Bellefonte Borough and the Townships of Benner, Marion, Spring and Walker have jointed together to create a comprehensive plan to create a joint planning commission to achieve general consistency amongst and between the cooperating municipalities; and

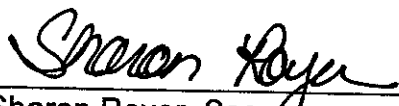
WHEREAS, this joint planning commission will be known as the Nittany Valley Joint Planning Commission and all cooperating municipalities will be governed by the Nittany Valley Regional Comprehensive Plan Implementation Agreement; and

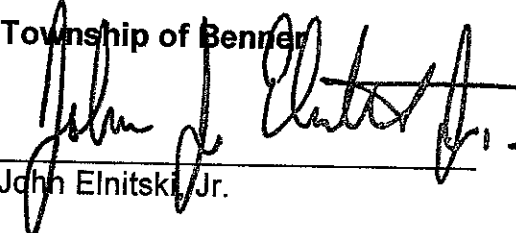
WHEREAS, the Township of Benner desires to formally adopt the Nittany Valley Regional Comprehensive Plan Implementation Agreement;

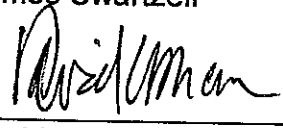
NOW, THEREFORE, BE IT ORDAINED AND ENACTED that the Township of Benner hereby joins the Nittany Valley Joint Planning Commission and adopts the Nittany Valley Regional Comprehensive Plan Implementation Agreement and agrees to be bound by the same.

ORDAINED AND ENACTED at a meeting of the Supervisors of Benner Township, Centre County, Pennsylvania, on the 2nd day of May, 2005.

ATTEST:


Sharon Royer, Sec.

Township of Benner

John Elnitski, Jr.

James Swartzell

David Breon

NITTANY VALLEY REGIONAL COMPREHENSIVE PLAN IMPLEMENTATION AGREEMENT

This Agreement, implementing the Nittany Valley Regional Comprehensive Plan, is created by and among Bellefonte Borough, and the Townships of Benner, Marion, Spring, and Walker (described herein collectively as the Participants) and is adopted pursuant to the authority set forth in Article XI of the Pennsylvania Municipalities Planning Code (MPC) as amended. The agreement shall be effective upon the passage of an ordinance adopting the Implementation Agreement by the governing body of each of the Participants. The Participants hereby adopt this Implementation Agreement to establish the process for achieving and maintaining general consistency between the Plan and the land development ordinances of each Participant, to establish a dispute resolution mechanism, and to establish the role and responsibilities of the participating municipalities with respect to implementation of specific provisions of the plan. In order to implement the Nittany Valley Regional Comprehensive Plan, to comply with the requirements of the MPC, and to avail themselves of the powers conferred upon municipalities that develop and implement regional comprehensive plans under the MPC, each Participant agrees as follows:

1. Nittany Valley Joint Planning Commission
 - a. Responsibilities - The Nittany Valley Joint Planning Commission (described herein as the Commission) shall continue as provided in the Nittany Valley Joint Planning Commission bylaws. The Commission shall further be charged with the duties and responsibilities specifically set forth through this agreement. The Commission shall not be authorized to acquire, license, or dispose of real or personal property nor shall the Commission be authorized to employ, contract with, or provide benefits to staff (other than contract professionals pursuant to Section 3 of this agreement).
 - b. Assignment - This Implementation Agreement may not be assigned by any Participant. The Commission may delegate or assign its duties but not its responsibilities hereunder in accordance with policies and procedures adopted by the Commission to consultants, advisors, experts, or other persons as determined appropriate by the Commission.
 - c. Expenses - Each Participant shall pay all costs and expenses incurred or to be incurred by it in carrying out the transactions contemplated by this Agreement. The expenses of the Commission shall be paid as agreed to by the Participants.
 - d. Authority - The recommendations and actions of this Commission regarding individual municipal land use ordinances and applications shall be for the purposes of ensuring consistency of the regional Comprehensive Plan and shall not supercede the authority of each Participant to enact or amend municipal ordinances.

2. Adoption of Conforming Ordinances - Within two years after adoption of the Plan, each Participant will implement the Plan by amending or otherwise conforming ordinances used by the Participant including its zoning ordinance, its subdivision and land development ordinance, its capital improvement plan, and any other ordinances, plans, or regulations related to land development, such as the regulation of flood plains, wetlands, stormwater, steep slopes, and historic districts (inclusively described herein as land development ordinances), as necessary and applicable so that they are generally consistent with the Plan. Any amendment, revision, extension, supplement, or modification to the Sewage Facilities Plan, including approval of a private development planning module, shall be generally consistent with the Plan.
3. Determining and Achieving General Consistency
 - a. “General Consistency” Determination – One of the primary tasks of the Commission is to review the density and land use provisions of the land development ordinances of each Participant to determine whether they are generally consistent with the Plan. The Commission is authorized to retain the services of qualified consultants to assist in the consistency review and determination. The recommendations of the Centre County Planning Office, the consultant, or any sub-committee are not binding on the Commission, which is responsible for determining general consistency. When evaluating a Participant’s ordinances for “general consistency”, the Commission shall examine what is allowed by existing ordinances and shall determine whether there is a reasonable and rational connection or relationship between the ordinances of each Participant and the provisions of the Plan.
 - b. Amendment of Ordinances - Participants agree to make the revisions to their land development ordinances and regulations that are necessary to make them generally consistent with the Plan within two years of adopting the Plan. If a Participant feels an ordinance is already generally consistent with the Plan that has been identified by the Commission as not generally consistent with the Plan, the Participant, the Commission, or any other Participant may engage the dispute resolution provisions of Section 6 of this Agreement to resolve the dispute. If, as a result of the dispute resolution process, it is determined that the Participant’s ordinances are not generally consistent with the Plan, the Participant shall, after complying with all applicable procedural requirements of the MPC and any other statutes, amend its ordinances to make them generally consistent with the Plan.
4. Future Comprehensive Plan Amendment or Ordinance Amendment – Requests for amendments to the Comprehensive Plan or any land development ordinances developed and/or revised pursuant to that Plan may only be made by the Participants. Individuals or groups requesting said amendments shall make a written request to the affected municipality or municipalities. Such requests may be forwarded by said municipality or municipalities at their discretion. If any participating municipality desires to make an amendment to the Nittany Valley Regional Comprehensive Plan or any land development

ordinances developed and/or revised pursuant to that Plan, that municipality shall submit in writing, to each Participant and to the Centre County Planning Office, a description of the proposed amendment with supporting evidence and documentation for review and comment. The Centre County Planning Office shall have thirty days to provide comments to the municipality and to each Participant. Following the County's thirty day review and comment period, the Participants shall have an additional fifteen days to submit comments to the municipality, to each Participant, and to the Centre County Planning Office. If no concerns are raised, the Nittany Valley Joint Planning Commission and each Participant will accept the determination of the municipality from whom the request for amendment has been made. If a concern is raised by one or more Participant, or by the Centre County Planning Office, the municipality shall defer decision on the amendment until such time that the Centre County Planning Office can convene a meeting of the Nittany Valley Regional Planning Commission. Such a meeting shall occur within 60 days of the deadline for submission of Participants' comments. At that meeting, the proposed amendment shall be discussed, and a vote of the Nittany Valley Regional Planning Commission shall be taken and recorded with a majority vote to determine the outcome. Any Participant can appeal the decision of the Nittany Valley Regional Planning Commission to the Centre County Planning Commission for dispute resolution, pursuant to Section 602.1 of the MPC. All costs associated with any resulting revision to the Nittany Valley Regional Comprehensive Plan shall be borne by the municipality from which the request for amendment was made.

5. Implementation of Approved Plan Amendments - Each Participant agrees that within two years of the passage of an ordinance adopting a Plan Amendment, it will conform its zoning, subdivision, and other land development ordinances and regulations to the Plan as amended.
6. Dispute Resolution - A dispute or claim over the rights or obligations, performance, breach, termination, or interpretation of this Implementation Agreement, the Plan, or any other matter, action, claim, dispute, question, or issue arising under the terms of this Agreement not otherwise resolved between or among Participants, and/or one or more Participants and the Commission may be resolved as follows:
 - a. The disputing parties agree to first discuss and negotiate in good faith in an attempt to resolve the dispute amicably and informally.
 - b. If the dispute cannot be settled through direct discussions and good faith negotiations, the disputing parties agree that, upon written notice by one of the disputing parties to the other or others, they will endeavor to settle the dispute in an amicable manner by mediation utilizing the auspices of the County pursuant to the provisions of Section 602.1 of the MPC or such other mediation agency as the parties may agree. Unless otherwise agreed, costs of mediation will be shared equally by the disputing parties.
 - c. The Participants mutually agree to make best efforts to resolve disputes as they arise.

7. Reports - By July 1st in each year following the execution of this Implementation Agreement, each Participant will furnish to the Centre County Planning Office a report that describes the activities carried out pursuant to this Implementation Agreement during the previous year. The Centre County Planning Office will prepare an annual report for distribution to all municipalities consistent with the provisions set forth in Section 1104.b.4 of the MPC.
8. Amendments to the Implementation Agreement
 - a. Requirements - An amendment to this Implementation Agreement that affects the rights and obligations of all Participants may be made only with the consent of all Participants, each of which shall execute the amendment by ordinance.
 - b. Consistency with the Nittany Valley Regional Comprehensive Plan - No amendment to this Implementation Agreement shall be inconsistent with the Nittany Valley Regional Comprehensive Plan. Any amendment that is not generally consistent with the Plan shall be void.
 - c. Notice of Amendment to the Implementation Agreement - A true and complete copy of every amendment of this Implementation Agreement shall be provided, by the Participant requesting the amendment, to each Participant within 10 days of the full execution thereof or its effective date, whichever is sooner.
9. New Participants to the Implementation Agreement - Additional Participants may join this Implementation Agreement. A new Participant must first be admitted as an Additional Participant to the Commission under the terms of the Nittany Valley Joint Planning Commission bylaws and execute the Implementation Agreement. If a new Participant's admission will require an amendment to the Nittany Valley Regional Comprehensive Plan, the new Participant may join the Implementation Agreement when 1) the Participants have approved an appropriate Plan Amendment providing for the admission of the Additional Participant and 2) the Additional Participant has adopted the Nittany Valley Regional Comprehensive Plan as so amended and has agreed to execute and be bound by this Implementation Agreement.
10. Withdrawal - A Participant may voluntarily withdraw from participation in this Implementation Agreement at any time after having been a Participant for at least one year; provided that the Participant shall give at least six months notice to the Commission secretary and to each other Participant. Any Participant who votes to rescind the Nittany Valley Regional Comprehensive Plan, adopted September 16, 2004, shall be automatically withdrawn from this Implementation Agreement. No costs shall be incurred by any Participant and no reimbursements shall be made to any Participant as a result of withdrawal from this agreement.
11. Developments of Regional Significance – The review of developments of regional significance shall be defined by and occur through the Centre County Planning

Commission and, for the purposes of this Agreement, shall only provide for a review and comment opportunity by the Participants, if applicable. Subdivision and land development approval powers shall only be exercised by the municipality in which the subject property is located. Under no circumstances shall a subdivision or land development applicant be required to undergo more than one approval process.

12. Provision of Uses – The identification of and plan for provision of all land uses, growth areas, resource areas, housing needs, and public infrastructure needs shall be maintained in the regional Comprehensive Plan.
13. Execution, Effective Date, and Term - This Implementation Agreement shall become effective upon the adoption of an ordinance approving this Implementation Agreement by all Participants. In the event that less than all Participants adopt an approving Ordinance by January 1, 2006, this Implementation Agreement shall be deemed automatically amended to name only those Participants whose governing bodies have passed an approving Ordinance. Thereafter steps shall be taken to also amend the Plan to reflect only those Participants who have adopted this Agreement. This Agreement shall remain in effect until terminated by written consent of each of the Participants or after the expiration of ten (10) years from the date of the adoption of this Agreement.
14. Severability - The unenforceability or invalidity of any provision of this Agreement shall not affect the enforceability or validity of any other provision.