

ORDINANCE NO. 5 OF 2002

**TOWNSHIP OF CUMBERLAND
GREENE COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF THE TOWNSHIP OF CUMBERLAND,
GREENE COUNTY, PENNSYLVANIA, REGULATING,
RESTRICTING AND PROHIBITING OPEN FIRES AND
BURNING BY THE ESTABLISHMENT OF SPECIFIC
REGULATIONS, EXCEPTIONS AND DEFINITIONS,
DESIGNATING ENFORCEMENT OFFICERS AND
PRESCRIBING PENALTIES FOR VIOLATION THEREOF.**

WHEREAS, Cumberland Township had enacted Ordinance No. 2-2002 on April 1, 2002 adopting certain rules and regulations concerning open fires and burning by residents of Cumberland Township and amending Ordinance 9-1996 therein; and

WHEREAS, it is now deemed necessary for the protection of the health, cleanliness, welfare, comfort and safety of the citizens of the Township of Cumberland to amend the aforesaid Ordinance.

NOW THEREFORE, pursuant to the authority conferred upon it by the Pennsylvania Second Class Township Code, the Board of Supervisors of the Township of Cumberland, Greene County, Pennsylvania, do hereby ENACT AND ORDAIN the following:

SECTION 1. SHORT TITLE

This Ordinance shall be known and cited as the Cumberland Township "AIR POLLUTION CONTROL ORDINANCE".

SECTION 2. PURPOSE

The Supervisors of Cumberland Township, finding that excessive levels of smoke and air pollution are detrimental to the physical, mental and social well-being of the people as well as to their comfort, living conditions, general welfare and safety and being therefore a public health and welfare hazard hereby declares it to be necessary to provide for the greater control and more effective

regulation of excessive levels of smoke and air pollution and sources of excessive smoke and air pollution within the Township.

SECTION 3. DEFINITIONS

The following words, terms and phrases, when used in this Ordinance, shall for purposes hereof, have the meanings respectively ascribed in this section:

BOARD - The Board of Supervisors of Cumberland Township, Greene County, Pennsylvania.

FURNACE - Any enclosed device specifically designed for the burning of any material for the production of heat.

GARBAGE - All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

INCINERATOR - Any device specifically designed for the destruction by burning of refuse, sewage sludge, or any other combustible material.

OPEN FIRE - A fire in which any material is burned in the open or in a receptacle other than a furnace, incinerator or barbecue grill.

PERSON - Any individual, partnership, association, company, firm, trust, corporation, department, bureau, agency or other entity recognized by law.

REFUSE - Garbage, rubbish and trade waste.

RUBBISH - Solids not considered to be highly flammable or explosive including but not limited to rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry and other similar materials.

SALVAGE OPERATION - Any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to, metals, chemicals, shipping containers or drums.

TRADE WASTE - All solid or liquid material or rubbish resulting from construction, building operations, or the prosecution of any business, trade or industry including but not limited to, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials; provided, that "trade waste" shall not include any coal refuse associated with the mining or preparation of coal.

SECTION 4. REGULATIONS

Within the Township limits, no person shall:

- A. Ignite or feed an open fire for the destruction of refuse or in the conduct of a salvage operation in any public or private place outside any building;
- B. Cause, suffer, allow, or permit the maintenance of any open fire for the destruction of refuse, or in the conduct of a salvage operation on any property under his control outside of any building.
- C. Ignite or feed an open fire for any other reason in any area designated as Village 1 - and as defined by the Cumberland Township Zoning Ordinance existing at the time therein.

SECTION 5. EXCEPTIONS

The regulations as set forth in Section 4 are subject to the following exceptions:

- A. Open fires may be set in the performance of an official duty of any public officer if the fire is necessary for:
 - (i) the prevention of a fire hazard which cannot be abated by other means; or
 - (ii) the protection of public health; or
 - (iii) official fire department training programs.

B. Open fires may be set after having secured a permit therefore from the local fire department or Code Enforcement Officer, provided:

- (i) permits shall not be issued for open burning occurring on any legal holidays and on Sundays; and
- (ii) permits may be issued for open burning occurring on Monday, Tuesday, Thursday and Friday from 9:00 a.m. to 6:00 p.m. for each respective day and on Saturday from 8:00 a.m. to 12:00 p.m.; and
- (iii) permits shall not be issued for open burning occurring Monday through Friday from 6:00 p.m. to 9:00 a.m. and on Saturday from 12:00 p.m. to 12:00 a.m.; and
- (iv) all persons securing a permit must comply with Section 5.D. of this Ordinance.

C. In those situations where a local fire department has denied a request for a permit for the setting of an open fire, the Code Enforcement Officer shall have the ability to issue a permit for the same, provided:

- (i) the Code Enforcement Officer conducts a reasonable investigation and communicates with the local fire department; and
- (ii) provides a copy of the granted permit to the local fire department prior to the setting of said open fire.

D. Small, well-controlled fires for outdoor cooking in barbecue grills and the like (provided said fire is attended by a responsible person until extinguished) may be set on any day between the hours of 7:00 a.m. and 10:00 p.m.

E. Fires in a receptacle or in the open may be set each Wednesday between the hours of 9:00 a.m. and 6:00 p.m. without securing a permit as set forth in Section 5 (B) and (C) of this Ordinance. At 6:00 p.m. on Monday through Friday and 12:00 p.m. on Saturday, said fire must be completely extinguished, not smoldering and producing smoke. At all times said fire must be attended by a responsible person.

SECTION 6. ENFORCEMENT

The Cumberland Township Police, Local Fire Departments and the Cumberland Township Code Enforcement Officer shall have the power and duty to enforce the provisions of this Ordinance.

SECTION 7. PENALTIES

Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than Six Hundred and 00/100 (\$600.00) Dollars, and in default of payment, to imprisonment for a term not to exceed ninety (90) days. Each day a violation exists shall constitute a separate offense.

SECTION 8. REPEALER

Any ordinance containing any provision inconsistent herewith to the extent that such provision is inconsistent, that provision is also hereby repealed.

SECTION 9. 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 of this Ordinance. It is hereby declared as the intent of the Township Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

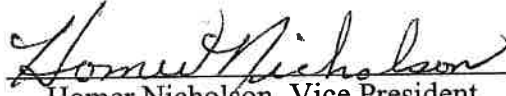
SECTION 10. EFFECTIVE DATE

This Ordinance shall become effective immediately upon final enactment.

ORDAINED AND ENACTED INTO LAW by the Board of Supervisors of the Township
of Cumberland in lawful session assembled this _____ day of _____, 2002.

**TOWNSHIP OF CUMBERLAND
BOARD OF SUPERVISORS**

By: 
Leroy Baker, President

By: 
Homer Nicholson, Vice President

By: 
James M. Sokol, 3rd Member

ATTEST:


Secretary

(SEAL)