

ORDINANCE NO. 2011-1

**AN ORDINANCE ESTABLISHING RULES AND REGULATIONS
FOR THE MOUNT HOLLY MARSH PRESERVE, PROVIDING
FOR ENFORCEMENT AUTHORITY AND ESTABLISHING
PENALTIES FOR VIOLATIONS.**

BE IT ENACTED AND ORDAINED by the Board of Commissioners of Cumberland County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

SECTION 1: SHORT TITLE

This Ordinance shall be known and may be cited as the Mount Holly Marsh Preserve Rules and Regulations Ordinance.

SECTION 2: LEGISLATIVE INTENT AND APPLICABILITY

The background of this Ordinance and the legislative intention of the Board of Commissioners in enacting it are as follows:

- A. Cumberland County is a Pennsylvania 4th class county.
- B. Sections 2502 and 2511 of the Pennsylvania County Code, 16 P.S. § 2502, 2511, provide, *inter alia*, that the County Commissioners may manage, supervise operate and maintain recreation places and may vest the authority to enforce rules and regulations.
- C. Section 2509 of the Pennsylvania County Code, 16 P.S. § 2509, provides that all fines received or realized from violations shall be paid into the County treasury.
- D. By virtue of a deed dated the 9th day of March, 1992, and recorded in the Office of the Recorder of Deeds in and for Cumberland County in Deed Book "N," Volume 35, Page 1163, the County of Cumberland acquired fee simple title to a certain unimproved tract of land situate in Mount Holly Springs Borough, South Middleton Township and Dickinson Township, Cumberland County, Pennsylvania, which tract contains approximately 900 acres, more or less, and is more particularly described in the deed and in a certain Final Subdivision Plan prepared by Walter N. Heine Associates, Inc., dated December 1990, revised through September 20, 1991, as recorded in Cumberland County Plan Book 63, Page 70, and being Lot No. 2 thereon.
- E. The land described in the preceding paragraph, and defined herein as the Preserve, contains natural features of recognized value and the Board of Commissioners desires to prevent deleterious land use practices.

F. A portion of the Preserve consisting of approximately 200 acres, more or less, defined herein as the Marshland, contains sensitive wetlands and is a critical habitat for certain endangered species and plants.

G. The Board of Commissioners desires to allow access to the Preserve for the public's enjoyment under the rules and regulations herein established, while concurrently prohibiting hunting in the Marshland or the discharge of firearms into it.

H. The Board of Commissioners of Cumberland County, Pennsylvania, determines that it is in the best interest of the public health, safety and welfare of its citizens to establish the rules and regulations with penalties for violations as set forth herein.

SECTION 3: DEFINITIONS. The following words and terms, when used in this Ordinance, have the following meanings, unless the context clearly indicates otherwise:

ALL-TERRAIN VEHICLE – An all-terrain vehicle as defined in the Pennsylvania Vehicle Code.

COUNTY – The County of Cumberland.

COUNTY EMPLOYEE – An employee of the Department.

COUNTY OFFICIAL – A County Commissioner, the County Chief Clerk and the County Planning Director.

DEPARTMENT – The Cumberland County Planning Department.

DOMESTICATED ANIMAL – A dog, cat or other animal that has been domesticated.

LAW ENFORCEMENT OFFICER – As defined in the Crimes Code, including without limitation, an enforcement officer authorized under the Fish and Boat Code, Title 30 Pennsylvania Consolidated Statutes, or under the Game and Wildlife Code, Title 34 Pennsylvania Consolidated Statutes.

MARSHLAND – The sensitive area described in Section 2, Paragraph F of this Ordinance.

MOTOR VEHICLE – As defined in the Vehicle Code.

PENNSYLVANIA CRIMES CODE OR CRIMES CODE – Title 18 Pennsylvania Consolidated Statutes.

PENNSYLVANIA VEHICLE CODE OR VEHICLE CODE – Title 75 Pennsylvania Consolidated Statutes.

PERSON – A corporation, company, club, firm, association, society, partnership, joint stock company, limited liability company or corporation, limited liability partnership, unincorporated association, governmental agency or individual.

PRESERVE – The Mount Holly Marsh Preserve as described in Section 2, Paragraph D of this Ordinance.

SNOWMOBILE – As defined in the Vehicle Code.

VEHICLE – As defined in the Vehicle Code.

SECTION 4: PROHIBITED ACTS. No person shall commit or cause to be committed any of the following acts:

A. Injure, deface, disturb, mutilate, befoul or in any manner destroy or cause to be destroyed any part of the Preserve, or any sign, equipment, or other property found therein.

B. Remove, injure or destroy any tree, flower, shrub, plant or growing thing, or any ground, rock or other mineral.

C. Throw, discharge or otherwise place or cause to be placed in the waters of any marsh, wetland, pond, creek or other body of water in the Preserve or any tributary flowing into such waters, any substance, matter or thing, liquid or solid, which may result in the pollution of said waters.

D. Dump, deposit or leave any bottles, broken glass, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse, or trash anywhere within the Preserve, but rather carry out all of the foregoing for proper and lawful disposal by the person responsible for bringing such items into the Preserve.

E. Dump, deposit or leave any grass, tree or brush clippings anywhere in the Preserve.

F. Build, ignite or cause any fire or set off any fireworks, explosive, torpedo, rocket or other combustible, pyrotechnical materials.

G. Enter upon or be present in the Preserve between dusk and dawn, except when authorized by the Planning Department, in its sole discretion, for special events.

H. Possess or operate in the Preserve any vehicle or motor vehicle, to include without limitation, cars, trucks, motorcycles, scooters, off-road vehicles, all-terrain vehicles, dirt bikes, snowmobiles, bicycles, tricycles, unicycles, mountain bikes, skateboards, skates, roller blades,

go-karts or any other motorized or self-propelled personal transportation device. The foregoing prohibition shall not be construed to prohibit the use of a mobility assist vehicle for a disabled person, provided the operation of such vehicle shall not cause damage to the natural environs. Further, this prohibition shall not apply to the use of vehicles by the Planning Department, or by those authorized by it, for the purposes of maintaining the Preserve and/or enforcing the provisions of this Ordinance.

I. Permit any domesticated animals to be within the Preserve without being controlled by a leash not more than six feet long. It shall be unlawful to bring any dangerous or vicious animal into the Preserve.

J. Engage in merchandising or advertising, whether or not for profit, to include the following:

(1) Offer for sale any article or thing, nor station or place any stand, cart or other equipment for the transportation, sale or display of any such article or thing.

(2) Announce, advertise or call the public attention in any way to any article or service for sale or hire.

(3) Post, paste, fasten, paint, write, draw, carve, tack or affix any placard, bill, notice, sign, advertisement or any inscription whatever upon any structure, tree, stone, fence, thing or enclosure, except that the Department may place informational signs within such areas.

K. Engage in disorderly conduct, endanger any person or engage in a consensual or non-consensual fight or altercation.

L. Consume, possess, transport or be under the influence of alcohol or illegal drug.

M. Prevent any person from entering or using the Preserve, or interfere with such use, except that the Department may do so in the enforcement of this Ordinance.

N. Discharge any firearm, air rifle, air pistol, sling shot, bow or other weapon, except while engaged in lawful hunting activities during lawful seasons. No firearm may be discharged in or into the Marshland.

O. Erect or occupy any tent, stand or other structure.

P. Cause or permit any horse to enter or be within the Preserve.

Q. Store or leave food in a manner that is reasonably likely to attract wildlife.

R. Cause or create a noise which would likely annoy or disturb a reasonable person of normal sensitivities.

S. Plant a seed, tree, shrub or plant without permission of a County official.

T. Tie or hitch an animal to any tree, plant, fence or structure.

U. Interfere with any County official or County employee in the performance of his or her duties.

V. Refuse to obey the directions and commands of any County official, County employee or law enforcement officer in the performance of his or her duties.

W. Fail to observe the rules with respect to the Preserve.

SECTION 5: ALL OTHER LAWS APPLICABLE. Nothing herein shall be construed to permit any conduct now or hereafter prohibited by any law or rule, federal, state or local.

SECTION 6: POSTING. The employees of the Department shall be responsible for posting these Rules and Regulations at conspicuous points of entry into the Preserve and no trespassing signs at conspicuous points along the perimeter of the Marshland.

SECTION 7: ENFORCEMENT AUTHORITY. Any County official, County employee and any law enforcement official shall have the authority to enforce the provisions of this Ordinance and to initiate prosecutions for violations.

SECTION 8: PENALTIES FOR VIOLATIONS. Any person violating any of the provisions of this Ordinance shall be subject to a fine of not more than \$600 and costs of prosecution; in default of payment of such fine and costs not due to indigence, the person shall be subject to imprisonment of up to 30 days. Each violation of this Ordinance shall be considered a separate offense punishable by the fines set forth herein. Where such violator has removed, destroyed, damaged, defaced or befouled the Preserve or the contents thereof, the costs of maintenance, repair or replacement shall be charged to such person in addition to any fine; further, use of the Preserve may be denied to said violators in addition to the imposition of fines or costs.

SECTION 9: CIVIL REMEDIES PRESERVED. The County shall retain any and all civil actions and remedies in law or in equity.

SECTION 10: SEVERABILITY. If any sentence, clause, phrase or section 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, phrases, sections or parts of this Ordinance.

It is hereby declared as the intention of the Board of Commissioners of Cumberland County that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, phrase, section or part thereof not been included therein.

SECTION 11: REPEALER. Any other Ordinance or parts thereof inconsistent with this Ordinance be and are hereby expressly repealed.

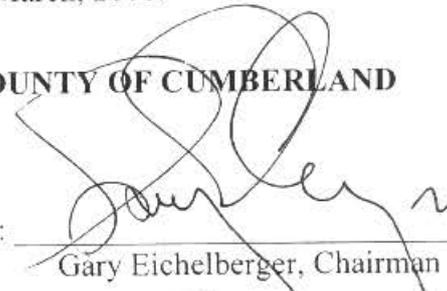
SECTION 12: EFFECTIVE DATE. This Ordinance shall become effective as provided by law.

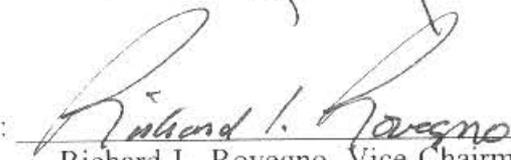
ENACTED AND ORDAINED this 30th day of March, 2011.

ATTEST:


Dennis Marion, Chief Clerk

COUNTY OF CUMBERLAND

By: 
Gary Eichelberger, Chairman

By: 
Richard L. Rovegno, Vice-Chairman

By: 
Barbara B. Cross, Secretary