

**ORDINANCE NO. 2006-9**

**AN ORDINANCE REQUIRING WEIGHING OR MEASURING DEVICES TO BE INSPECTED BY THE CUMBERLAND COUNTY BUREAU OF WEIGHTS AND MEASURES, ESTABLISHING PROCEDURES FOR REGISTRATION OF DEVICES, PROVIDING FOR PERMIT FEES, PROHIBITING VIOLATIONS, PROVIDING ENFORCEMENT REMEDIES 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 Consolidated Weights and Measures Ordinance.

**SECTION 2: LEGISLATIVE INTENT AND APPLICABILITY**

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

- A. Cumberland County ("County") is a Pennsylvania 4<sup>th</sup> class county.
- B. The Consolidated Weights and Measures Act, Act of December 18, 1996, P.L. 1028, No.155, 3 Pa. C.S. § 4101, *et seq.* ("Act"), provides that the Department of Agriculture ("Department") may delegate powers and duties to the County under a Memorandum of Understanding. 3 Pa.C.S. § 4125.
- C. The County has heretofore accepted the delegation of powers and duties under the Act, and the Board has determined that it is in the best interest of the public health, safety and welfare of County citizens to continue exercising such powers and undertaking such duties.

**SECTION 3: DEFINITION OF TERMS**

In the interpretation of this Ordinance and of any act hereunder, terms shall have the definitions assigned to them by the Act, which definitions are incorporated herein by reference. In addition, the following specific definitions shall apply:

Bureau – The Cumberland County Bureau of Weights and Measures.

Fuel dispenser – A device designed for the measurement and delivery of gasoline, diesel, or kerosene fuel.

Scale – Any weighing device used in commercial trade.

Scanning device – Any scanning device used to read UPC labels in commercial trade.

#### **SECTION 4: MEMORANDUM OF UNDERSTANDING**

The Board has heretofore authorized entry into the attached Memorandum of Understanding with the Department. Pursuant to the Act, the Board is authorized, by motion at a duly constituted meeting, to update and renew the Memorandum of Understanding until such time as this Ordinance shall be repealed. The Board accepts on behalf of the County all of the powers and duties delegated under the Memorandum of Understanding, as renewed from time to time.

#### **SECTION 5: PROHIBITED CONDUCT**

No person shall operate, use or maintain a weighing or measuring device in violation of the Act or the provisions of this Ordinance. No person, firm or corporation shall operate, use or maintain a weighing or measuring device for commercial purposes unless he has paid the current annual registration fee and has received the registration permit for the device.

#### **SECTION 6: REGISTRATION REQUIREMENTS**

All weighing and measuring devices shall be registered. The Bureau shall not issue a weighing and measuring device registration permit unless:

- A. The applicant shall have truthfully furnished such information in writing as is required on the application form duly adopted by the Bureau.
- B. The applicant pays the annual registration permit fee for each weighing and measuring device.
- C. Any person utilizing numerous similar devices or different types of devices (i.e., scales and fuel pumps) shall pay the sum of the per unit fees for the total of the devices in use.

#### **SECTION 7: REGISTRATION FEES**

Registration fees shall be established by resolution of the Board from time to time.

#### **SECTION 8: ADMINISTRATION AND ENFORCEMENT**

Pursuant to the authority of Section 4183 of the Act, 3 Pa.C.S. § 4183, this Ordinance shall be administered and enforced by the Bureau under the supervision of the Chief Sealer.

**SECTION 9: ENFORCEMENT REMEDIES**

The Bureau shall have all of the powers and duties set forth in the Memorandum of Understanding and as otherwise authorized by law. When there is or appears to be a violation of the provisions of this Part, the Bureau, in addition to any other remedies, may institute in the name of the County any appropriate action at law or in equity to prevent, restrain, correct or abate such violation.

**SECTION 10: PENALTIES FOR VIOLATIONS**

- A. Criminal penalties. A person who violates any provision of this Ordinance or any rule, regulation, standard or order made under this Ordinance commits a summary offense for the first or second offense. Any summary offense shall, upon conviction thereof, be sentenced to pay a fine or penalty of three hundred dollars (\$300.00), together with costs of prosecution, or be subject to imprisonment for a period of not more than thirty (30) days, or both. A person who violates any provision of this Ordinance or any rule, regulation, standard or order made under this Ordinance commits a misdemeanor of the third degree if the violation is a third or subsequent offense and if the violation occurs within two years of the date of the last previous offense. Each day that a violation exists shall constitute a separate offense.
  
- B. Civil penalties. In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this Ordinance or a rule or regulation adopted or any order issued under this Ordinance, the Bureau may refer a violation to the Department for assessment of a civil penalty.

**SECTION 11: 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 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 12: REPEALER**

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

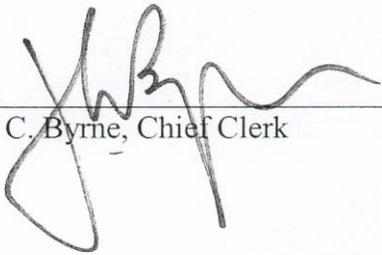
**SECTION 13: EFFECTIVE DATE**

This Ordinance shall become effective as provided by law.

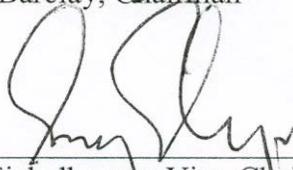
ENACTED AND ORDAINED this 16<sup>TH</sup> day of NOVEMBER, 2006.

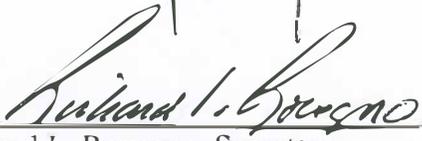
ATTEST:

COUNTY OF CUMBERLAND

  
\_\_\_\_\_  
John C. Byrne, Chief Clerk

By:   
\_\_\_\_\_  
Bruce Barclay, Chairman

By:   
\_\_\_\_\_  
Gary Eichelberger, Vice-Chairman

By:   
\_\_\_\_\_  
Richard L. Rovegno, Secretary