

ORDINANCE NO. 72, 2003

**AN ORDINANCE FOR UPPER BERN TOWNSHIP, BERKS COUNTY,
PENNSYLVANIA, ESTABLISHING RESTRICTIONS FOR THE OPERATION OF
LARGE AUTOMOBILES PARKED IN THE TOWNSHIP**

WHEREAS, the Board of Supervisors of Upper Bern Township, Berks County, Pennsylvania believes the health, safety and welfare of the public is endangered and a public nuisance is created by the unnecessary generation of noxious fumes and/or loud noises when operators of large vehicles including, but not limited to, diesel-powered tractor trailers, keep their engines running when such vehicles are parked in the Township for extended periods of time; and

WHEREAS, the Board of Supervisors of Upper Bern Township, Berks County, Pennsylvania desire to establish limitations on the ability of operators of large vehicles including, but not limited to, diesel-powered tractor trailers, to keep their engines running while such vehicles are parked in the Township for extended periods of time.

Be it enacted and ordained by the Board of Supervisors of Upper Bern Township, Berks County, Pennsylvania, as follows:

SECTION 1: Definitions

As used in this chapter, the following terms shall have the meanings indicated:

EMERGENCY VEHICLES – Any motor vehicle used by police, fire fighters, paramedics, or other similar providers of services of the general public.

LARGE AUTOMOBILE – Any motorized automobile containing more than two (2) axles including, but not limited to, any diesel-powered tractor trailer.

MOTOR VEHICLE NUISANCE – In addition to any other nuisance prohibited by law, regulation, or ordinance or regulation, a motor vehicle nuisance shall occur when: the operator of any Large Automobile allows the vehicle's engine to run idle continuously for fifteen (15) minutes or for thirty (30) minutes during any consecutive period of eight hours, at any time when such Large Automobile is parked in the Township.

OPERATOR – Any person who has charge, care or control of a Large Automobile. Additionally, it shall mean any person who has charge, care or control of the premises where the Large Automobile is located at the time that the nuisance occurs.

OWNER – Any person, agent, operator, firm or corporation having a legal or equitable interest in the subject Large Automobile or Premises.

PERSON – An individual, corporation, partnership, or any other group acting as a unit.

PREMISES – A lot, plot or parcel of land located in the Township, including the buildings or structures thereon, on which a Large Automobile is parked.

TOWNSHIP – Township of Upper Bern in the Commonwealth of Pennsylvania.

SECTION 2: Violations and Penalties

A. Unlawful Acts. It shall be unlawful for the Operator or Owner of any Large Automobile, or the Owner or Operator of any Premises on which a Large Vehicle is parked, to permit the subject Large Automobile to be operated in the Township so as to create a Motor Vehicle Nuisance as defined herein.

B. Penalty. Any person, firm or corporation who or which shall violate any provision of this ordinance shall be subject to the maximum fines and penalties for summary offenses as determined by the Commonwealth of Pennsylvania in effect at the time of the violation.

C. Evidence. In determining whether a Motor Vehicle Nuisance has occurred, the law enforcement authorities of the Township may consider as persuasive evidence sworn statements from any Person who witnessed any event or series of events that constitute(s) a Motor Vehicle Nuisance as defined hereunder.

SECTION 3: Emergency Vehicles Exempted: The provisions of this ordinance shall not apply to any emergency vehicles which are being used at the time in rendering aid to persons within Upper Bern Township.

SECTION 4: Civil Remedies: In addition to the criminal remedies as set forth above, the Township shall also have the right to proceed against any person, firm, or corporation who violates the provisions of this ordinance by the institution of a civil cause of action seeking damages and/or injunctive relief as a result of the nuisance.

SECTION 5: Severability: Should any clause, section or other part of this ordinance be held invalid or unconstitutional by any Court of competent jurisdiction, then the remainder of this ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 6: Repeal of Conflicting Ordinances: Any section of any Township ordinance inconsistent with the terms and conditions of this ordinance are hereby repealed to the extent of the inconsistency.

SECTION 7: Effective Date: This ordinance shall be effective immediately upon adoption by the Board of Supervisors for the Township.

DULY ENACTED AND ORDAINED this 6 day of Nov, 2003.

ATTEST:

BOARD OF SUPERVISORS OF THE
TOWNSHIP OF UPPER BERN,
PENNSYLVANIA

Stacy M. ...
Secretary

By: *Paul J. ...*
Chairman