

CHAPTER 13

HAZARDOUS ACCIDENTS AND MATERIALS

BOROUGH OF WYALUSING
ORDINANCE NO. 13

AN ORDINANCE CHAPTER NO. 13, HAZARDOUS ACCIDENTS AND MATERIALS, OF THE CODE OF THE BOROUGH OF WYALUSING, COUNTY OF BRADFORD, COMMONWEALTH OF PENNSYLVANIA.

The purpose of this Ordinance is to regulate Hazardous Accidents and Materials as authorized under the Borough Code found at 53 P.S. § 46202, Specific powers.

(6) Health and cleanliness regulations. To make such regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and the beauty, convenience, comfort and safety of the borough.

The Borough of Wyalusing hereby ordains and enacts as follows:

§ 1. DEFINITIONS.

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

DANGEROUS INCIDENT -- Any incident which creates a dangerous condition requiring immediate and emergency action in order to prevent injury to persons or damage to property, and necessitates either or both of the following responses:

A. The intervention of the Borough of Wyalusing Fire Department or any other agency of the borough or any emergency agencies or services which may service the Borough of Wyalusing, including but not limited to rescue squads operating in the Borough of Wyalusing.

B. The need for cleanup or abatement measures to be performed by borough employees, or the need for any responsive action resulting in expense to the borough.

ENTITY -- Any person, corporation, partnership or other entity engaged in the buying, selling, storing, transferring, transporting, or manufacturing or processing of properties, merchandise, chemicals, fuels, waste products or any other goods or services for compensation.

HAZARDOUS ACCIDENT -- Any incident that occurs as a result of the storage, transportation, use, or manufacturing, processing or discharging of any substance potentially dangerous to the public health and welfare at large which necessitates either or both of the following responses:

A. The intervention of the Borough of Wyalusing Fire Department or any other agency of the borough or any of the emergency agencies or services which may assist the Borough of Wyalusing, including but not limited to rescue squads operating in the Borough of Wyalusing.

B. The need for cleanup or abatement measures to be performed by borough employees, or the need for any responsive action resulting in expense to the borough.

PUBLIC THOROUGHFARE -- Bridges, state highways, county roads, borough streets, any navigable waterways or other roadways or watercourses owned by a governmental unit, or a privately owned street, parking lot or access way to which the public has access.

§ 2. COST OF ABATEMENT OF HAZARDOUS ACCIDENTS.

A. The business, which owns or leases the premises on which a hazardous accident occurs shall be responsible for all costs that are incurred as a direct or consequential result of a hazardous accident. In the event that a hazardous accident occurs during transportation on a public thoroughfare or a delivery to an entity other than a business as defined in § 1 hereinabove, the entity who owns or has custody or control of the vehicle or substance involved in the hazardous accident shall be responsible for all costs that occur as a direct or consequential result of such accident. Nothing contained herein shall prevent such business or entity from recovering any costs from a third party whose negligence may have caused such hazardous accident.

B. In the event that any person undertakes, either voluntarily or upon order of an official of the Borough of Wyalusing, to clean up or abate the effects of any hazardous accident, the borough may take such action as deemed necessary to supervise or verify the adequacy of the cleanup or abatement. The business or entity described hereinabove shall be liable to the borough for all costs incurred as a result of such supervision or verification.

C. For the purpose of this chapter, costs of a hazardous accident shall include but are not limited to the following:

- (1) Expenses incurred by police, fire, or emergency medical services.

- (2) Actual labor costs of borough personnel, including benefits and administrative overhead.
- (3) Costs of consultants or others preparing reports concerning the hazardous accident costs of equipment operations.
- (4) Costs of materials obtained directly or indirectly by the borough.
- (5) Costs of any contractual labor and materials for clean up or abatement.
- (6) Costs of the Borough Solicitor, Engineers and Borough Secretary connected with the hazardous accident.
- (7) Costs to replace or repair any damage caused to equipment utilized by the borough or any other service agency, which responded to the accident.

D. The costs resulting from the hazardous accident shall be paid directly to the borough within 30 days from the date on which the borough issues an invoice or other appropriate demand for such costs. Interest shall accrue on any unpaid invoice at the rate of 11/2% per month commencing after the expiration of the thirty-day grace period.

E. In the event that the payment of the costs is more than 30 days delinquent, the Borough may also impose a penalty of 5% for any amounts that remain unpaid. The Borough Solicitor shall be responsible for the collection of any delinquent payments by institution of a lawsuit.

§ 3. COST OF EMERGENCY RESPONSE TO DANGEROUS INCIDENTS.

A. Any entity which owns or has custody or has control of any motor vehicle or other instrumentality that creates a dangerous incident as defined by this chapter, or any entity which owns or leases any real property upon which a dangerous incident takes place, shall be responsible for all costs of any emergency response that arises as a direct or consequential result of such incident. Nothing contained herein shall prevent such entity from recovering any costs from a third party whose negligence may have caused such dangerous incident.

B. In the event that any person undertakes, either voluntarily or upon order of any official of the Borough of Wyalusing, to clean up or abate the effects of any dangerous incident, the borough may take such action as deemed necessary to supervise or verify the adequacy of the cleanup or abatement. The entity described in § 95-3A hereinabove shall be liable to the borough for all costs incurred as a result of such supervision or verification.

C. For the purpose of this chapter, costs of a dangerous incident shall include but are not limited to the following:

- (1) Expenses incurred by police, fire or emergency medical services.
- (2) Actual labor costs of borough personnel, including benefits and administrative overhead.
- (3) Costs of consultants or others preparing reports concerning the dangerous incident.
- (4) Costs of equipment operations.
- (5) Costs of materials obtained directly or indirectly by the Borough Solicitor, Engineers, and Borough Secretary.
- (6) Costs of any contractual labor and materials for cleanup or abatement.
- (7) Costs of the Borough Solicitor connected with the dangerous incident.
- (8) Costs to use replace or repair any damage caused to equipment utilized by the borough or any other service agency, which responded to the incident.

D. The costs resulting from the dangerous incident shall be paid directly to the borough within 30 days from the date on which the borough issues an invoice or other appropriate demand for such costs. Interest shall accrue on any unpaid invoice at the rate of 11/2% per month commencing after the expiration of the thirty-day grace period.

E. In the event that the payment of the costs is more than 30 days delinquent, the borough may also impose a penalty of 5% for any amounts that remain unpaid. The Borough Solicitor shall be responsible for the collection of any delinquent payments by institution of a lawsuit.

§ 4. FEES FOR USE OF BOROUGH PERSONNEL, MATERIAL AND EQUIPMENT.

The borough shall from time to time adopt a resolution, after consultation with the Borough Fire Department and Borough Secretary to adopt a schedule of fees for personnel, material and equipment to be reimbursed to the borough for its activities in connection with the cleanup operations set forth in this chapter. In the absence of a resolution, the fees shall be the hourly wage of the Borough personnel involved in the operation and an overhead rate of 32% to cover the additional costs of the personnel and the equipment rental value as listed in the Emergency Management Plan.

THIS ORDINANCE shall take effect immediately upon adoption.