

ORDINANCE NO. 2017-2

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF COALDALE, SCHUYLKILL COUNTY, PENNSYLVANIA, ENACTING AN ORDINANCE PERTAINING TO THE RECOVERY OF COSTS INCURRED BY THE BOROUGH RELATIVE TO EMERGENCY RESPONSE OF PERSONNEL, EQUIPMENT AND MATERIAL NEEDED FOR CLEAN UP OF HAZARDOUS MATERIAL AND/OR SUBSTANCES RELEASED WITHIN THE BOROUGH OF COALDALE DELIBERATELY, NEGLIGENTLY OR OTHERWISE, AND KNOWN AS "REIMBURSEMENT FOR EMERGENCY COSTS AND SERVICES"

BE IT ORDAINED and Enacted by the Council of the Borough of Coaldale as follows:

The following section is hereby being amended, specifically, Chapter 10 Section 301 et seq. and known as "Reimbursement for Emergency Costs and Services"

Section 1 Title

This chapter shall be known as the "Borough of Coaldale Emergency Abatement Vehicular Accident Ordinance"

Section 2. Legislative Findings.

The Borough of Coaldale determines that the release, whether it be deliberate or negligent or otherwise, of any hazardous materials or deposits onto or upon properties or facilities within the service area of police, fire and other emergency services of the Borough of Coaldale (or into other areas if called or requested by the proper authority), and that extended traffic obstructions threaten the safety and welfare of its residents and traveling public and create situations which must be immediately responded to and corrected; and the Borough Council of the Borough of Coaldale is desirous of protecting the safety and welfare of the residents of the community, traveling public and of emergency response personnel, and obtaining expenses reimbursement as is recognized and authorized by Act 165 of 1990, The Hazardous Material Emergency Planning and Response Act.

Section 3. Definitions; word usage.

- A. Unless otherwise expressly stated, the following words shall, for the purposes of this chapter, have the meanings herein indicated:

BOROUGH— Borough of Coaldale

CARTWAY— The paved traveled portion of a road, street or highway.

HAZARDOUS MATERIALS OR SUBSTANCES — Any material or substance which is determined by the person in charge of police, fire or emergency services provided through the Borough or its authorized representatives to pose an unreasonable or imminent risk to life, health and safety of persons or property, and shall include but not be limited to such substances as gasoline, oil, vehicular fluids, explosives, radioactive materials, petroleum products or gases, poisons, etiologic (biologic) agents, flammables, corrosives, or materials listed in the Hazardous Substance List of the Pennsylvania Department of Labor and Industry, the Solid Waste Management Act, 35 P.S. Section 6018.103, and the Worker and Community Right to Know Act, 35 P.S. Section 7303, and hazardous materials as defined at 35 P.S. Section 6022.103, the Hazardous Material Emergency Planning and Response Act, and such other hazardous materials as are or may be defined by federal law.

PERSON — Any natural person, firm or corporation, association or partnership or other legal entity, excluding the Borough.

SIDEWALK — Any concrete or asphalt pedestrian walkway, including all structures or appurtenances necessary, desirable or incidental to the installation and safe use of a sidewalk.

TRAFFIC EMERGENCY — Any condition which, in the determination of the police of Coaldale, constitutes an extended obstruction or potential obstruction to cartways, sidewalks, roads, streets, highways in the Borough (or in areas outside of the Borough if called or requested by proper authority) and which require prompt removal or traffic control in order to provide safe and convenient passage thereon or which otherwise poses an unreasonable risk to life, health or safety of persons or property, and shall include but not be limited to fire fighting, vehicle accidents, electrical conditions, vehicle failures or environmental hazards.

VEHICLE — Every device which is or may be moved or drawn upon a road, street or highway.

- B. Words in the singular shall include the plural, and those in the plural shall include the singular.

SECTION 4 Authority to abate emergency and collect costs.

The Borough hereby authorizes and directs its various emergency services, employees or any other persons utilized or hired for such purposes or any volunteer emergency services organization recognized by the Borough to take reasonable steps to clean up, or abate, or cause to be cleaned up or abated, any hazardous materials or substances released to abate hazardous material or substances or traffic emergency within the service area of Borough police (or outside of the Borough if called or requested by proper authority). The reasonable steps to be taken shall include, without limitation, towing, removing and impounding of vehicles, providing traffic control, evacuation, relocation, substance monitoring or removal, establishment of medical care facilities and to recover from any person responsible for the emergency, any and all costs incurred in carrying out such steps. Any person or persons who intentionally or accidentally or negligently caused such emergency shall be liable for all costs of any kind or nature whatsoever incurred by the Borough of Coaldale or any volunteer services organization recognized by the Borough of Coaldale. For purposes of this chapter, "release": shall include any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including but not limited to the abandonment or discarding of barrels, containers and other receptacles containing a hazardous material. The remedies provided by this chapter shall be in addition to all other remedies provided by other laws or ordinances of the Commonwealth of Pennsylvania and this Borough.

SECTION 5 – Determination of Costs.

For purposes of this chapter, "costs of cleanup and abatement" shall include, but are not limited to, actual labor cost of Borough personnel, including workmen's compensation benefits, fringe benefits, administrative overhead, cost of equipment operation, cost of special cleaning or

containment agents or fire extinguishment agents used or cost of any contracted labor and materials; and further, it shall include any costs incurred by the Department of Police, the Volunteer Fire Department, and any other agency or contractor engaged in the abating and cleaning up activities, including but not limited to, all "response costs" as defined at 35 P.S. Section 6022.210(c), excepting however, costs of actual fire suppression services which are routinely provided.

SECTION 6 – Litigation.

The Borough may enforce the provisions of this ordinance by civil action in a court of competent jurisdiction for the collection of any amounts due hereunder plus attorney's fees or for any other relief that may be appropriate.

SECTION 7 – Effective Date.

This ordinance shall become effective immediately upon enactment by the Borough Council.

ORDERED AND ENACTED this 9th day of May, 2017.

BOROUGH OF COALDALE

BY:

Angela Krapp

ATTEST:

Leanne L. Helden
Secretary

Examined and Approved this 9th day of May, 2017.

[Signature]
Mayor