

ORDINANCE NO. 214

AN ORDINANCE OF THE BOROUGH OF MILESBERG PROHIBITING THE DISCHARGE AND REGULATING THE CLEAN-UP OF HAZARDOUS MATERIALS, PROVIDING REGULATIONS FOR THE CONTAINMENT, CLEAN-UP AND RESTORATION OF HAZARDOUS MATERIALS SPILLS, GRANTING ACCESS TO REPRESENTATIVES OF THE BOROUGH FOR PURPOSES OF ALLOWING THE BOROUGH TO ASSESS THE THREAT TO PUBLIC HEALTH AND SAFETY, AND TO MONITOR THE CONTAINMENT, CLEAN-UP OR RESTORATION OF HAZARDOUS SPILL SITES, TO PROVIDE FOR CIVIL AND CRIMINAL LIABILITY AND ASSESSING PENALTIES FOR VIOLATIONS THEREOF.

Borough Council of Milesburg Borough, by authority of same, does hereby ordain as follows:

Section 1. Prohibition Against Discharge of Hazardous Materials. No person, firm or corporation shall discharge or cause to be discharged, leak, leach or spill upon or into any public street, alley or public property or onto the ground, surface water, subsurface waters, or aquifers, or any private property except those areas specifically licensed for waste disposal or landfill activities in the Borough of Milesburg any hazardous material as hereinafter defined.

This section shall not apply to an induction well for which the owner or lessee has a valid permit from the United States Environmental Protection Agency. Likewise, this section does not apply to any activity expressly licensed or permitted by the United States Atomic Energy Commission or the Pa. Department of Environmental Resources.

Section 2. Regulation of Containment, Clean-up and Restoration. Any person, firm or corporation in violation of this section must, upon direction of a duly appointed representa-

tive of the Borough, begin immediate action to contain, clean-up and remove to an approved depository the offending material(s) and restore the site to its original condition. Should any person, firm or corporation fail to engage or complete the requirements of this section, the duly authorized representative of the Borough may order the owner or lessee to take the required action or, in default thereof, may, on behalf of the Borough, without the taking of bids, do the necessary work with all costs incurred by the Borough to be reimbursed by anyone found in violation of the within Ordinance.

Section 3. Access. The owner or lessee of any site, public or private, where a prohibited discharge is occurring or where there is probable cause to believe that such discharge is occurring shall provide access to personnel of the Borough for the purpose of allowing them to evaluate the threat to public health and safety or to monitor the containment, clean-up or restoration activity needed for the protection of the public health or safety. In the event voluntary access is not granted by the owner or lessee, the appropriate officer or employee of the Borough may obtain an administrative search warrant and after receiving the same may enter the premises.

Section 4. Public Protection. Should any prohibited discharge occur that reasonably causes a threat to life, safety, health or welfare of the public, the duly authorized representative of the Borough on the scene may order an evacuation of the area or take such other appropriate protective steps for such period of time as needed until the Borough Council can act.

Section 4. Enforcement. A duly constituted representative of the Borough shall have the authority to make complaints and issue citations and summonses under this section.

Section 5. Civil Liability. Any person, firm or corporation in violation of this section shall be liable to the Borough and to any individual whose person or property was damaged by such violation for any and all expenses incurred by the Borough, or such other person, and any other loss or damage sustained by the Borough, or such other person, by reason of such violation.

Section 6. Definition. Hazardous material is defined as either:

(a) Any material or combination of materials of a solid, liquid or contained gaseous or semi-solid form which, because of its quantity, concentration, physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment. Such material includes but is not limited to material which is toxic, carcinogenic or flammable. Such material also includes irritants and strong sensitizers and materials which generate pressure because of decomposition or heat. Likewise, toxic material also includes containers and receptacles previously used in the transportation, storage, use or application of materials described herein as hazardous material.

(b) Hazardous waste as defined by the applicable statutes of the Commonwealth of Pa.

Section 7. Penalties. Any person, firm or corporation found guilty of violating any of the provisions of this Ordinance shall be subject to a fine of not less than One Hundred (\$100.00) Dollars for the first offense and not more than

Three Hundred (\$300.00) Dollars for each subsequent offense, together with the costs of prosecution in each instance; and in default of payment thereof, shall be imprisoned in the County Jail for a period not in excess of thirty (30) days.

Section 8. Separate Offense. Each day of violation shall constitute a separate offense.

Section 9. Severability. If any sentence, clause, section or part 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, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough of Milesburg that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 10. Effective Date. This Ordinance shall become effective 2nd day of February, 1987.

ATTEST:

Billy R. Hill
Secretary

BOROUGH OF MILESBURG

By: Robert B. Park
President

Robert K. [Signature]
Mayor