

CATAWISSA BOROUGH, COLUMBIA COUNTY, PA

FILE COPY

ORDINANCE NO. 2005- 02

**AN ORDINANCE OF CATAWISSA BOROUGH AUTHORIZING THE
COLLECTION AND REIMBURSEMENT OF THE COSTS OF ABATEMENT
OF HAZARDOUS ACCIDENTS AND EMERGENCY RESPONSE TO
DANGEROUS INCIDENTS INCURRED BY CATAWISSA BOROUGH AND
THE POLICE AND EMERGENCY RESPONSE AGENCIES OPERATING
WITHIN THE BOROUGH.**

WHEREAS, the Borough Council of Catawissa Borough is authorized to adopt ordinances providing for the proper management, care and control of the Borough and its finances and the maintenance of the public health, safety and welfare of the residents of the Borough; and

WHEREAS, Catawissa Borough, Catawissa Hose Company #1, and Catawissa Emergency Management Agency may incur substantial costs in connection with hazardous accidents and emergency response to dangerous incidents which occur in the Borough as the result of immediate actions which must be taken when the accident or incident is discovered; and

WHEREAS, the Borough has authorized the emergency response agencies to respond to emergencies within the Borough and elsewhere as provided by mutual aid agreements; and

WHEREAS, the emergency response agencies respond to hazardous material incidents, environmental incidents, and safety and rescue incidents; and,

WHEREAS, the majority of responses involve the use of equipment and materials; and

WHEREAS, it is the intention of the Borough to recognize the authority of the emergency response agencies to seek collection and reimbursement for the reasonable costs of such equipment and materials while responding to such incidents, over and above any costs incurred by the Borough.

NOW, THEREFORE, it is hereby **ORDAINED** and **ENACTED** by the Council of Catawissa Borough, as follows:

SECTION 1: DEFINITIONS

- A. **HAZARDOUS ACCIDENT**- Any incident that occurs from the storage, transportation, use, 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:
1. The intervention of the police department serving the Borough or any of the emergency response agencies which may assist the Borough, including, but not limited to, fire companies or rescue squads operating in the Borough; or
 2. The need for cleanup or abatement measures to be performed by Borough personnel, or the need for any responsive action resulting in expense to the Borough.
- B. **DANGEROUS INCIDENT**- Any incident which creates a dangerous condition requiring immediate emergency action to prevent injury to persons or damage to property, and necessitates either or both of the following responses:
1. The intervention of the police department serving the Borough or any of the emergency response agencies which may service the Borough, including but not limited to fire companies or rescue squads operating in the Borough; or
 2. The need for cleanup or abatement measures to be performed by Borough personnel, or the need for any responsive action resulting in expense to the Borough.
- C. **BUSINESS**- Any person, corporation, partnership, or other entity engaged in the buying, selling, storing, transferring, transporting, manufacturing or processing of properties, merchandise, chemicals, fuels, waste products or any other goods or services for compensation.
- D. **PUBLIC THOROUGHFARE**- Bridges, state highways, township roads, any navigable waterways or other roadways or water courses owned by a governmental unit, or a privately owned street, parking lot or access way to which the public has access.

**SECTION 2. COST OF ABATEMENT OF HAZARDOUS
ACCIDENTS INCURRED BY THE BOROUGH**

- A. The Business (as defined in Section 1C) which owns or leases the premises on which a Hazardous Accident (as defined in Section 1A) occurs shall be responsible for all costs that occur as a direct or consequential result of a Hazardous Accident. In the event a Hazardous Accident occurs during transportation on a public thoroughfare, or in delivery to an entity other than a Business (as defined in Section 1C), 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 or an official of the Borough, to cleanup 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 in Section 2A above shall be liable to the Borough for all costs incurred as a result of such supervision or verification.
- C. For the purposes of the Ordinance, costs of a Hazardous Accident shall include, but are not limited to, the following: expenses incurred by police, fire, or emergency medical services; actual labor costs of Borough personnel, including benefits and administrative overhead; costs of consultants or others preparing reports concerning the Hazardous Accident; costs of equipment operations; costs of materials obtained directly by the Borough; costs of any contractual labor and materials for cleanup or abatement; costs of the Borough solicitor or Borough engineer connected with the Hazardous Accident; costs to replace or repair any damage caused to equipment utilized by the Borough or any 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 1.5 percent per month commencing after the expiration of the 30 day grace period.

**SECTION 3. EMERGENCY RESPONSE TO DANGEROUS
INCIDENTS INCURRED BY THE BOROUGH**

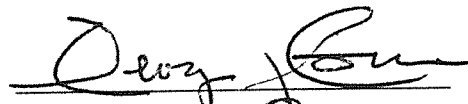
- A. Any entity which owns or has custody or control of any motor vehicle or other instrumentality that creates a Dangerous Incident (as defined in Section 1B), or any entity which owns or leases any real property upon which a Dangerous Incident takes place, shall be responsible for all costs of any 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, 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 Section 3A above shall be liable to the Borough for all costs incurred as a result of such supervision or verification.
- C. For the purposes of this Ordinance, costs of a Dangerous Incident shall include, but are not limited to the following: expenses incurred by police, fire, or emergency medical services; actual labor costs of Borough personnel, including benefits and administrative overhead; costs of consultants or others preparing reports concerning the Dangerous Incident; costs of equipment operations; costs of materials obtained directly by the Borough; costs of any contractual labor and materials for cleanup or abatement; costs of the Borough Solicitor and Borough Engineer connected with the Dangerous Incident; costs to 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 1.5 percent per month commencing after the expiration of the 30 day grace period.

**SECTION 4 COSTS INCURRED BY THE
EMERGENCY RESPONSE AGENCIES**


- A. Catawissa Borough hereby recognizes the authority of the mentioned emergency response agencies to recover the reasonable costs of equipment and materials involved in any hazardous material incident, environmental incident, or any safety and rescue incident or operation, including structure and non-structure fires and vehicle accidents, from a person's or persons' or entity's or entities' insurance company. The costs for utilization of equipment shall be based upon Federal Emergency Management Agency (FEMA) Schedule of Equipment Rates in effect on the date of the emergency response.
- B. Said reasonable costs may be recovered directly by such emergency response agency or through a third party agency agreement.
- C. In addition to the aforementioned reasonable costs, such emergency response agency shall be authorized to collect reasonable interest, administrative fees and any and all additional fees as may be authorized by the Hazardous Material and Emergency Planning and Response Act, or as authorized by any other statutes or laws.

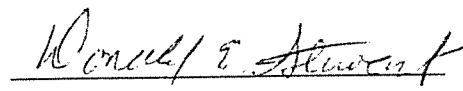
ENACTED AND ORDAINED this 12th day of September, 2005.

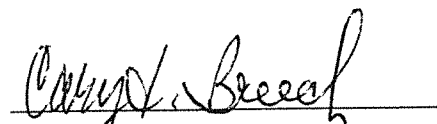
COUNCIL OF THE
BOROUGH OF CATAWISSA


George J. Romania, President

ATTEST


Janet A. Erb, Secretary


Donald E. Stewart, Vice President


Cary F. Breech, Mayor