

Chapter 114

EMERGENCIES AND HAZARDOUS ACCIDENTS

ARTICLE I
Recovery of Costs

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[HISTORY: Adopted by the Borough Council of the Borough of North Wales: Art. I, 12-22-1992 as Ord. No. 654. Amendments noted where applicable.]

ARTICLE I
Recovery of Costs
[Adopted 12-22-1992 as Ord. No. 654]

§ 114-1. Definitions.

As used in this Article, 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 North Wales Police Department or any of the emergency agencies or services which may service the Borough of North Wales, including but not limited to Fire Companies

or Rescue Squads operating in the Borough of North Wales.

- 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.

HAZARDOUS ACCIDENT — Any incident that occurs from 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 North Wales Police Department or any of the emergency agencies or services which may assist the Borough of North Wales, including but not limited to Fire Companies or Rescue Squads operating in the Borough of North Wales.
- 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 accessway to which the public has access.

§ 114-2. Responsibility for cost of abatement.

- A. Any owner or lessee of premises on which a hazardous accident occurs shall be responsible for all costs directly or consequentially resulting from that hazardous accident. In the event that a hazardous accident occurs during transportation on a public thoroughfare or in delivery to any entity, 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 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 North Wales, 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 in Subsection A 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 Article, 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; cost of any contractual labor and materials for cleanup or abatement; costs of the Borough Solicitor and Borough Engineer connected with the hazard's accident; and 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 thirty (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 one and one-half percent (1¹/₂%) per month commencing after the expiration of the thirty-day grace period. The borough shall first make demand for such costs to the entity

which owns or has custody or control of the vehicle or substance involved in the hazardous accident occurring during transportation on a public thoroughfare, or in delivery to any entity. The borough shall then make demand for such costs to any owner or lessee of the premises on which a hazardous accident occurs, only in the event that, and to the extent that, the entity which owns or has custody or control of the vehicle, or substance involved in the hazardous accident fails to pay such costs directly to the borough within the thirty-day grace period.

§ 114-3. Responsibility for cost of response to dangerous incident.

- 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 Article, or any entity which owns or leases any real property upon which a dangerous incident takes place shall be responsible for all costs or 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 North Wales, 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 Subsection A 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 Article, 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; cost of any contractual labor and materials for cleanup or abatement; costs of the Borough Solicitor and Borough Engineer connected with the dangerous incident; and 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 thirty (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 one and one-half percent (1¹/₂%) per month commencing after the expiration of the thirty-day grace period. The borough shall first make demand for such costs to the entity which has custody or control of the motor vehicle or other instrumentality that creates the dangerous incident. The borough shall then make demand for such costs to any owner or lessee of the premises upon which the dangerous incident occurs, only in the event that, and to the extent that, the entity which has custody or control of the motor vehicle or other instrumentality that creates the dangerous incident fails to pay such costs directly to the borough within the thirty-day grace period.