

WEST NANTMEAL TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 115-2012

AN ORDINANCE OF THE TOWNSHIP OF WEST
NANTMEAL, CHESTER COUNTY, PENNSYLVANIA,
REGULATING THE RESPONSE TO THE RELEASE OF
HAZARDOUS MATERIALS.

WHEREAS, West Nantmeal Township has determined that the exposure to hazardous materials has the potential for causing undesirable health and environmental affects and poses a threat to the health, safety and welfare of the citizens of West Nantmeal Township, and that the citizens of West Nantmeal Township should be protected from the health hazards and harmful exposure resulting from hazardous material releases;

WHEREAS, the Second Class Township Code provides second class townships with the authority to enact ordinances to prohibit nuisances, 53 P.S. §65712, to regulate and prohibit the dumping and depositing of refuse materials, 53 P.S. §65708, to create regulations necessary for the promotion of the health, cleanliness, comfort and safety of the citizens of the Township, 53 P.S. §65729, and to ordain rules and regulations for the governance of fire companies located within the Township, 53 P.S. §65704;

WHEREAS, the Pennsylvania Hazardous Material Emergency Planning and Response Act, 35 P.S. §6022.101, et seq., authorizes municipalities and fire companies responding to a release of hazardous materials to recover the response costs by law or by an action in equity.

NOW, THEREFORE, it is hereby ENACTED and ORDAINED by the Board of Supervisors of West Nantmeal Township as follows:

SECTION I. TITLE. This Ordinance shall be known and may be cited as the West Nantmeal Township Hazardous Materials Response and Release Ordinance.

SECTION II. DEFINITION OF TERMS. As used in this Ordinance, the following terms shall have the meanings indicated:

Hazardous Material - Any substance or hazardous substance in a quantity or form which, in the determination of the Fire Chief of the Glenmoore Fire Company, the Twin Valley Fire Department or any other fire company that is authorized to respond to an emergency call in West Nantmeal Township, or their authorized representatives, poses an unreasonable and imminent risk to the life, health or safety of

persons or property or to the ecological balance of the environment, including the following substances:

(a) any substance listed in the list of toxic pollutants found in 40 C.F.R. §401.15;

(b) any substance designated as a hazardous material in the Pennsylvania Hazardous Material Emergency Planning and Response Act, 35 P.S. §6022.101, et seq., or other applicable law of the Commonwealth of Pennsylvania;

(c) any compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison or radioactive material, all as defined in 49 C.F.R., Part 173;

(d) refuse as defined at 25 Pa. Code §75.1;

(e) hazardous waste, municipal waste, residual waste and solid waste, all as defined in the Pennsylvania Solid Waste Management Act, 35 P.S. §6018.101, et seq.;

(f) any hazardous substance or hazardous waste as defined in the Pennsylvania Hazardous Sites Cleanup Act, 35 P.S. §6020.101, et seq.

(g) regulated substances as defined in the Pennsylvania Storage Tank and Spill Prevention Act, 35 P.S. 56021.101, et seq.;

(h) any other explosive, pyrotechnic material, flammable gas, flammable compressed gas, non-flammable compressed gas, flammable liquid, oxidizing material, flammable material, poisonous gas, poisonous liquid, irritating material, material that may cause disease in humans, gas under such pressure that an explosion hazard exists, radioactive material, corrosive metal, or liquefied petroleum gas, not otherwise defined above.

Release - Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, including private and/or public property, of a hazardous material, including but not limited to, the abandonment or discarding of barrels, containers or other receptacles containing a hazardous material.

Response - Any action taken in the event of a release of a hazardous material into the environment to contain, minimize, abate, eliminate and/or dispose of the released hazardous material.

Response Costs - Any monies, expenses, fees or other costs incurred by Glenmoore Fire Company, Twin Valley Fire Department, any other fire company authorized to respond to an emergency in West Nantmeal Township and/or West Nantmeal Township and related to the response of such Fire Companies to a release of a hazardous material, including costs incurred for the following:

(a) disposable materials and supplies acquired, consumed and expended specifically for the purpose of the response to the hazardous material release;

(b) rental or leasing of equipment used specifically for the response, for example, protective equipment or clothing and scientific and technical equipment;

(c) replacement costs for equipment that is contaminated beyond reuse or repair during the response, for example, self-contained breathing apparatus irretrievably contaminated during a response, or decontamination of equipment contaminated during the response;

(d) compensation of paid employees or members of Glenmoore Fire Company, Twin Valley Fire Department or any other fire company authorized to respond to an emergency in West Nantmeal Township, responding to the release of a hazardous material, such compensation to include regular and overtime pay for permanent full-time and other than full-time employees or members;

(e) special technical services specifically required for the response, for example, costs associated with the time and efforts of technical experts or specialists;

(f) laboratory and testing costs for purposes of analyzing samples or specimens taken during the response;

(g) other speciality services specifically required for the response, for example, utility costs;

(h) costs associated with the services, supplies and equipment used to conduct an evacuation during the response;

(i) costs associated with the containment, removal and disposal of hazardous materials;

(j) any other costs incurred by West Nantmeal Township, Glenmoore Fire Company, Twin Valley Fire Department and/or any other fire company authorized to respond to an emergency in West Nantmeal Township which relate in any

way to the response of the respective fire company to the release of a hazardous material.

SECTION III. AUTHORIZATION TO RESPOND. Glenmoore Fire Company and Twin Valley Fire Department, being local fire departments having jurisdiction over West Nantmeal Township, are hereby authorized to provide an appropriate response to the release of any hazardous material deposited upon or into any public and/or private property or any waters of the Commonwealth located within West Nantmeal Township.

SECTION IV. PERSONS LIABLE FOR RESPONSE COSTS. Any person or entity who intentionally, negligently or non-negligently causes a release of a hazardous material within West Nantmeal Township shall be liable for the payment of all response costs which pertain to such release.

SECTION V. VIOLATION. It shall be illegal within West Nantmeal Township for any person or entity to refuse to pay the response costs expended by Glenmoore Fire Company, Twin Valley Fire Department, any other fire company authorized to respond to an emergency in West Nantmeal Township and/or West Nantmeal Township in response to a release of a hazardous material when that person intentionally, negligently or non-negligently caused such release and has been billed for payment of such costs. A person or entity shall be presumed to have refused to pay billed response costs if payment of the billed costs is not made in full within thirty (30) days following receipt of the bill. Each day a person or entity refuses to pay billed costs after the 30th day following the receipt of the billed costs shall constitute a separate violation under this Ordinance.

SECTION VI. PENALTIES. Any person or entity who shall violate any provision of this ordinance shall, upon being found liable, therefore in a civil enforcement proceeding, pay all response costs billed by Glenmoore Fire Company, Twin Valley Fire Department any other fire company authorized to respond to an emergency in West Nantmeal Township and/or West Nantmeal Township which have not yet been paid, and shall pay a fine not to exceed \$1,000.00, plus all court costs, including any reasonable attorney's fees incurred by West Nantmeal Township. The penalty provided in this Section shall be in addition to any other remedies available to West Nantmeal Township as provided at law and equity.

SECTION VII. MUNICIPAL LIEN. In addition to the penalties provided in this Ordinance and all others available at law and equity, West Nantmeal Township may file a municipal lien against the real property of any person or entity refusing to pay all or part of any billed response costs required to be paid by this Ordinance.

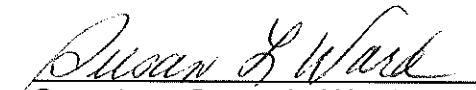
SECTION VIII. SEVERABILITY. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of West Nantmeal Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION IX EFFECTIVE DATE. This Ordinance shall become effective five (5) days after adoption.

ORDAINED AND ENACTED this 9th day of April, 2012.

ATTEST:

**BOARD OF SUPERVISORS
WEST NANTMEAL TOWNSHIP**


Secretary, Susan L. Ward


Gary C. Elston, Chairman


David L. Mast, Vice Chairman


Nelson R. Beam, Member