

ORDINANCE NO. 273

AN ORDINANCE OF THE BOROUGH OF BALLY, BERKS COUNTY, PENNSYLVANIA, PROHIBITING THE TRANSPORT OF HAZARDOUS MATERIALS EXCEPT OVER PERMITTED ROUTES; PROVIDING FOR THE REMEDIATION OF ANY HAZARDOUS MATERIAL SPILLS AND PROVIDING FOR PENALTIES FOR VIOLATIONS OF THIS ORDINANCE.

SECTION 1. Definitions. The following terms shall have the following meanings.

BOROUGH – shall mean the Borough of Bally, Berks County, Pennsylvania.

CFR - shall mean the Code of Federal Regulations. The numbers immediately preceding and immediately following the initials “CFR” shall refer to the volume, divisions, and sections used to identify the various chapters and sections of the Code of Federal Regulations.

COMPRESSED GAS – shall mean any substance regulated as a compressed gas by the United States Department of Transportation by regulation found in 49 CFR 173.115, as amended.

EXPLOSIVE – shall mean any substance regulated as an explosive by the United States Department of Transportation by regulations found in 49 CFR 173.50, as amended.

FLAMMABLE LIQUID – shall mean any substance regulated as a flammable liquid by the United States Department of Transportation by regulation found in 49 CFR 173.120, as amended.

FLAMMABLE SOLID – shall mean any substance regulated as a flammable solid by the United States Department of Transportation by regulation found in 49 CFR 173.124, as amended.

HAZARDOUS MATERIAL – shall mean any substance defined in this Ordinance as a compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poisonous or radioactive material, or biological waste.

OXIDIZER – shall mean any substance regulated as an oxidizer by the United States Department of Transportation by regulation found in 49 CFR 173.127, as amended.

POISONOUS MATERIAL– shall mean any liquid or gas that is life threatening when mixed with air in small amounts, and shall also include all those substances regulated as Poison by the United States Department of Transportation by regulation found in 49 CFR 173.132, as amended.

RADIOACTIVE MATERIAL – shall mean any substance required by the United States Department of Transportation to have Type A packaging or Type B packaging under regulations found in 49 CFR 173.403, as amended.

TRANSPORT CARRIER – shall mean any mode of conveyance moving on land upon wheels.

SECTION 2. Designated Routes.

- (a) In General. No person, firm or corporation shall transport any hazardous material through the Borough except over routes indicated as Permitted Routes in subsection (c) or as provided in subsection (b).
- (b) Local Deliveries. Deliveries to destinations within the Borough shall be made by following Permitted Routes to the point where the least amount of travel off a Permitted Route will be needed to reach delivery destination and by going to the destination and returning to the Permitted Route or routes by the method requiring the shortest travel distance off Permitted Routes.
- (c) Highways and Roadways. The following highways and roadways are designated “Permitted Routes” within the Borough:
 - (1) Main Street (Pennsylvania State Route 100), for its entire length through the Borough from the Southern to the Northern Boundary Line of the Borough
 - (2) North and South Seventh Street, for its entire length through the Borough
 - (3) North and South Church Street, for its entire length through the Borough
 - (4) North Front Street, from Main Street to the Borough Boundary line
 - (5) Cherry Street, from North Church Street to the Dead End

SECTION 3. Transportation Equipment and Condition.

No hazardous materials may be carried within the Borough for delivery to a local destination in any transport carrier larger than a tractor with one (1) trailer. Any such transport carrier used to transport hazardous materials within the Borough shall comply with all federal and state laws and regulations. All transport carriers shall be maintained in a safe condition.

SECTION 4. Spills.

In the event the operation of a transport carrier containing a hazardous material within the Borough results in a spill or escape of such hazardous material onto Borough streets or private property within the Borough, the person, firm or corporation transporting such materials as well as the owner or consignee of such materials shall be jointly and severally responsible for the physical containment, recovery and removal, and remediation of the affected area, and for any costs incurred by the Borough or other responsible persons or agencies acting with the same purpose of containment, recovery and/or removal of the hazardous material, and remediation of the affected area.

SECTION 5. Signs and Maps.

Signs shall be posted to inform the public of Permitted Routes for the transportation of hazardous materials within the Borough. Maps of such Permitted Routes shall also be made available to the public at the Bally Borough Hall.

SECTION 6. Exemptions.

The regulations created under this Ordinance shall not apply to any transport carrier carrying no hazardous material except flammable liquid in a container or containers having a total capacity of no more than one hundred ten gallons.

SECTION 7. Violations and Penalties.

Any person who in a civil action filed in a Court of competent jurisdiction shall be determined to be in violation of any provision of this Ordinance shall pay a fine of not more than one thousand dollars (\$1000.00) PLUS the costs of clean-up and/or remediation of the spill. Each day that a violation of this Ordinance continues shall constitute a separate offense.


SECTION 8. Severability.

If any provision(s) of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision(s) shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.


SECTION 9. Effective Date. This Ordinance shall take effect immediately.

ENACTED AND ORDAINED into an Ordinance this 4th day of May, 2010.

By: 
Council President

Attest: 
Andrea DeLo, Secretary

Approved:


Philip D. Ferrizzi, Mayor