

Ord. #14-2016

AN ORDINANCE OF THE TOWNSHIP OF MOUNT OLIVE, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING TOWNSHIP CODE TO AMEND CHAPTER 224. "HAZARDOUS MATERIALS" TO ADD A NEW SECTIONS, 224-10 THROUGH 224-15. "RAIL STORAGE OF HAZARDOUS MATERIALS"

WHEREAS, there are railway lines running through Mount Olive Township; and

WHEREAS, while businesses within the Township benefit from the presence of these railroad tracks and the operation of the lines, the Township must keep the health and safety of its residents and business owners at the forefront of all decisions; and

WHEREAS, the Township Council has learned that highly flammable liquefied petroleum gas is being stored on the tracks located at the end of Bartley-Chester Road, which was never intended to be a storage area; and

WHEREAS, the presence of these tank cars causes concerns relating to their impact on the health and safety of the surrounding businesses and residences, as well as security and logistical concerns; and

WHEREAS, the Township Council believes it is in the best interest to amend the Township Code to include standards and requirements regulating the storage of hazardous materials.

BE IT ORDAINED by the Township Council of the Township of Mount Olive, in the County of Morris, State of New Jersey that the Township Code is amended to add new Sections as follows:

SECTION 1. Chapter 224: Hazardous Materials, is amended to add sections as follows

§224-10 Rail Storage of Hazardous Materials

A. Legislative findings

The Township Council finds that the stopping, layover and storage of rail cars containing hazardous materials, including explosives, as defined herein along rail routes adjacent to or in close proximity to populated areas of the Township constitute an essentially local safety hazard; and that in the interest of providing for the health and safety of the population of the Township, and for the purpose of protecting the population from the danger and devastation of hazardous materials leaks or explosions, the provisions of this chapter are enacted.

B. Interpretation

It is the intention of the Township Council that this chapter shall supplement federal and state law and shall be interpreted in a manner uniformly consistent with the laws and regulations of the United States and the state of New Jersey, so far as possible, to avoid an undue burden on commerce.

§224-11. Definitions

As used in this chapter:

“Explosive” means any substance, or combination of substances, the primary or common purpose of which is detonation or rapid combustion and which is capable of a relatively instantaneous or rapid release of gas and heat. The term “explosive” or “explosives” shall include, but shall not necessarily be limited to, any of the following:

1. Propane, butane, dynamite, nitroglycerine, picric acid, lead azide, fulminate of mercury, black powder, smokeless powder, propellant explosives, detonating primers, blasting caps, commercial boosters, or

nitrocarbonitrates (oxidizing materials) when stored in a combined load with any explosive, as defined in this section;

2. Substances determined to be Class A or Class B explosives as classified by the United States Department of Transportation;

3. Any material or combination of materials, including atomic waste materials, that spontaneously emit ionizing radiation;

4. The term “explosives” as used in this chapter shall not be deemed to include small arms ammunition of seventy-five hundredths caliber or less, nor any other Class C explosives as classified by the United States Department of Transportation;

5. The term “explosives” does not include special fireworks classified by the United States Department of Transportation as Class B explosives;

“Hazardous Materials” means any material, solid, liquid or gas, classified as a hazardous material by federal, state or local legislation or regulation.

“Person” means a railroad engineer, conductor, yardmaster, train master, dispatcher, brakeman, terminal superintendent or any employee or other individual employed by or otherwise representing a rail carrier;

“Rail carrier” means every rail corporation, freight line, freight forwarder, dispatcher, car loaning or car renting company, railroad, or other company transporting explosives by train.

“Storage” shall mean the purposeful parking of rail cars or rail tank cars on railroad tracks to remain in such location for a period of time to exceed 24 hours.

§224-12. Applicability

Every person having control of the movement, stopping or parking of a railroad train which is transporting hazardous materials or explosives within the Township of Mount Olive shall operate the train in compliance with this chapter unless federal or state laws and regulations impose a greater affirmative obligation or a greater restraint, or unless compliance with this chapter would prevent full compliance with federal or state laws or regulations by persons subject thereto.

§224-13. Safe Stopping

No person having control over the movement, stopping or parking of a railroad train, which train includes any rail car or cars containing hazardous materials or explosives, shall knowingly cause the stopping or parking of such train or of such rail car or cars whether separated from or attached to a railroad locomotive or whether attached to or separated from other rail cars not containing explosives, within the Township, except when such stopping or parking is at a distance of not less than 1,000 from any building, dwelling house, or other improvement upon real property except real property in lawful possession of any rail carrier, provided such property in possession of a rail carrier is not a passenger station or other improvement to which the public is generally admitted. This section does not apply to the stopping or parking of a rail car or cars containing hazardous materials or explosives when necessary to make emergency repairs to rail tracks, or beds, to cars, engines, or other equipment used to transport hazardous materials or explosives; nor does it apply to stopping or parking necessary for the loading or unloading of rail cars, nor for the changing of crews, the switching of cars or

trains from one track to another, the substitution of locomotives, nor inspection for safety purposes, nor when due to a wreck, derailment, flood, slide, or other act of God. All such stopping or parking must, however, be minimized by the prompt execution of such measures as are possible under the circumstances in order to remove all cars containing explosives to a distance of not less than 1,000 feet from improved real property. Fences, roads, bridges, power transmission lines, telephone poles, culverts, and sign posts do not constitute improvements to real property for the purposes of this section.

§224-14. No storage

No person having control over the storage of a railroad train, which train includes any rail tank car or tank cars containing hazardous materials or explosives, shall knowingly cause the storage of such rail tank car or tank cars whether separated from or attached to a railroad locomotive or whether attached to or separated from other rail cars not containing hazardous materials or explosives, within the Township, except when such storage is at a distance of not less than 1,000 feet from any building, dwelling house, or other improvement upon real property except real property in lawful possession of any rail carrier, provided such property in possession of a rail carrier is not a passenger station or other improvement to which the public is generally admitted.

§224-15. Violation

It is unlawful and constitutes a misdemeanor for any person to violate the provisions of this section. Every person convicted of a misdemeanor for violation of any of the provisions of this chapter shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than six (6) months or by both such fine and imprisonment.

Any person arrested for violation of this chapter may be cited to appear in court by written notice prepared in the manner provided for in the New Jersey Code of Criminal Justice.

SECTION 2. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

SECTION 3. This Ordinance may be renumbered for purposes of codification.

SECTION 4. This Ordinance shall take effect twenty (20) days following final passage, approval, and publication as required by law.

Introduced:

Adopted:

Effective Date:

TOWNSHIP OF MOUNT OLIVE

Joe Nicastro, Mount Olive Council President

ATTEST:

Michelle Masser, Township Clerk