

ORDINANCE NUMBER 2013-37

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS, ST. JOHNS COUNTY, FLORIDA, CREATING THE ST. JOHNS COUNTY HAZARDOUS MATERIAL COST RECOVERY ORDINANCE, MAKING FINDINGS, STATING INTENT, PROVIDING SCOPE, PROVIDING DEFINITIONS, PROVIDING FOR LIABILITY OF RESPONSIBLE PARTIES FOR COSTS ASSOCIATED WITH A HAZARDOUS MATERIAL INCIDENT, PROVIDING FOR COLLECTION OF COSTS ASSOCIATED WITH A HAZARDOUS MATERIAL INCIDENT, PROVIDING FOR ENFORCEMENT, PERMITTING REIMBURSEMENT FROM OTHER SOURCES, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY:

Section 1. Short Title.

This ordinance shall be known as the St. Johns County Hazardous Material Cost Recovery Ordinance.

Section 2. Findings.

The Board of County Commissioners makes the following findings in support of this ordinance:

- A. It is in the interest of the public health, safety, and welfare of the people of St. Johns County for the Board to pass laws that promote clean air, water, and soil and protect wildlife and plants within the County.
- B. When hazardous materials are released into the environment, it has a negative effect on the quality of the air, water, and soil, is harmful to wildlife and plants, and poses a risk to human health, safety, and welfare.
- C. When hazardous materials are released into the environment, the County may be required to take remedial measures to clean up the materials and abate the effects of their release.
- D. When the County is required to respond to an incident of hazardous materials being released into the environment, it is appropriate for the party who is responsible for the release of the hazardous materials to compensate the County for the costs expended in connection with the County's response.

E. The County is authorized under Chapter 125, Florida Statutes, to act in the common interest of the people of the County where such actions are not inconsistent with Florida law.

F. It is in the common interest of the people of the County, and is not inconsistent with Florida law, for the County to require parties who are responsible for the release of hazardous materials into the environment to compensate the County for costs expended in connection with the County's clean-up and abatement of the effects of the released materials.

Section 3. Intent.

This ordinance shall provide for recovery by the County of costs incurred in emergency response, incident assessment, control, containment, and abatement efforts directly related to the release of hazardous materials into the environment.

Section 4. Scope.

This ordinance shall be effective within the unincorporated areas of St. Johns County and in any incorporated area of St. Johns County in which the County provides fire rescue services through an interlocal agreement.

Section 5. Definitions.

As used in this ordinance, the following words and phrases shall have the meaning indicated. If a definition in this section is inconsistent with the definition provided in Section 403.703, Florida Statutes, or that statute's successor in function, the definition as given in the state statute shall apply.

A. *Cost* means any necessary and reasonable expense incurred by the County as a direct result of a response to a hazardous material incident, including:

(1) Disposable materials and supplies acquired, consumed, and expended in response to the hazardous material incident;

(2) Any overtime labor costs incurred by the County in connection with a response to a hazardous material incident, whether incurred at the time of the response or at any point during the work period in which the response occurred if the overtime costs would not have been incurred but for the response;

(3) Any cost incurred for contract labor and equipment used by the County in response to the hazardous material incident;

(4) Any cost associated with labor and equipment used by the County via a mutual aid agreement for responses to hazardous material incidents;

(5) Any cost associated with the rental or leasing of equipment used in response to the hazardous material incident;

- (6) Decontamination of equipment contaminated during the response;
- (7) Replacement of equipment contaminated during the response, if the equipment is not able to be decontaminated;
- (8) Any cost associated with special technical services obtained in response to the hazardous material incident;
- (9) Any cost associated with other special services required during the course of the response to the hazardous material incident, including utility costs;
- (10) Laboratory costs incurred to analyze samples taken during the response;
- (11) Any cost associated with services, supplies, or equipment procured for an evacuation in connection with a hazardous material incident; and
- (12) Any cost paid to another jurisdiction pursuant to a mutual aid agreement for equipment or services provided in response to a hazardous material incident.

B. *County* means St. Johns County, Florida.

C. *Hazardous material* means any material that is defined as a hazardous substance in the United States Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 94 Stat. 2767 or any material that is identified as a hazardous material in 49 C.F.R. 172 or 49 C.F.R. 173.

D. *Hazardous material incident* means the release of a hazardous material that poses an immediate threat to the health, safety, or welfare of the population.

E. *Person* means any person, natural or artificial, including any individual, firm, or association; any municipal or private corporation organized or existing under the laws of Florida or any other state; any Florida county; and any state or federal governmental agency.

F. *Release* means any intentional or unintentional spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing any hazardous material into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous material or pollutant or contaminant.

G. *Response* means:

- (1) The clean-up or removal of released hazardous materials from the environment;
- (2) Such action necessary to monitor, assess, and evaluate the release of hazardous materials;
- (3) The disposal of removed material;
- (4) Any other action necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment, which may otherwise result from the release of hazardous materials.

H. *Response team* means an organized response team of emergency response personnel that is specially trained to recognize, respond to, and mitigate hazardous material incidents.

I. *Responsible party* means:

- (1) Any person whose negligent or willful act or omission proximately causes the release of a hazardous material;
- (2) Any person who owned or had custody or control of the hazardous material at the time of such release, without regard to fault or proximate cause;
- (3) Any person who owned or had custody or control of a container which held a hazardous material at the time of such release, without regard to fault or proximate cause; and
- (4) Any person who owns property on which a hazardous material is released, without regard to fault or proximate cause.

Section 6. Liability for Costs Associated with a Hazardous Material Incident

A. A responsible party shall be liable for the payment of all costs incurred by the County or its agents as a direct result of the County's response to a hazardous material incident.

B. If there are multiple responsible parties in connection with a hazardous material incident, the parties shall be jointly and severally liable to the County for payment of the costs incurred by the County or its agents as a direct result of the County's response to a hazardous material incident.

C. The County's authority to recover costs from a responsible party under this ordinance shall not include costs incurred for fire suppression service that is normally provided by the County's fire department or its authorized agents unless the fire was caused by the responsible party's negligence or intentional action.

Section 7. Collection of Costs Associated with a Hazardous Material Incident.

- A.** When responding to a hazardous material incident, the response team shall keep a detailed record of the costs attributable to the response.
- B.** Within 60 days of a hazardous material incident, the County shall submit an invoice to the responsible party identifying the costs incurred as a result of the County's response. The invoice shall include sufficient documentation of the costs to be reimbursed.
- C.** If the responsible party does not pay the invoice in full within 30 days of the date of the invoice, a late fee of 8 percent of the total billed on the invoice shall be assessed to the responsible party.
- D.** In cases of hardship, or where circumstances are such that the responsible party cannot make a full remittance of the invoiced costs within 30 days of the date of the invoice, the Board of County Commissioners may authorize the County Administrator, or such person as the County Administrator may designate, to enter into negotiations with the responsible party for an extended payment period, which shall not exceed 6 months. The County may charge the statutory interest payment for judgments pursuant to Section 55.03, Florida Statutes, for any extended payment period entered into pursuant to this subsection.

Section 8. Enforcement.

- A.** The County may enforce this ordinance by filing a civil action against the responsible party in county or circuit court for the collection of any unpaid invoiced costs, late fees, administrative collection costs, attorney's fees, court costs, and any other relief that may be appropriate. Venue for any action filed pursuant to this ordinance shall lie exclusively in St. Johns County, Florida.
- B.** If the County is a prevailing party in a civil action filed pursuant to this section, it shall file a certified copy of the judgment in its favor in the public records of St. Johns County. Thereafter, the judgment shall constitute a lien in favor of the County against the property on which the hazardous material incident occurred and upon any real or personal property owned by the responsible party.
- C.** A responsible party's failure to pay an invoice submitted pursuant to this ordinance, including any late fees assessed, within 6 months of the date of the invoice is a violation of this ordinance and shall be prosecuted in the same manner as a misdemeanor pursuant to Section 125.69(1), Florida Statutes. Upon conviction, the responsible party shall be punished by a fine not to exceed \$500, imprisonment in the County jail not to exceed 60 days, or by both such fine and imprisonment. If the responsible party has entered into an agreement with the County for an extended payment period, the 6 months shall be calculated from the date that payment was to have been made in full pursuant to the agreement.

D. Prosecution under subsection 8.C of this ordinance shall not prevent the County's enforcement and collection of the invoiced costs, including any applicable late fees, provided for in this ordinance.

Section 9. Reimbursement from Other Sources.

A. Nothing in this ordinance shall prevent the County from seeking reimbursement for costs incurred as a result of the County's response to a hazardous material incident from any funding source available under state or federal regulations.

B. If subsequent to the County's receipt of reimbursement from a state or federal agency, the County receives full or partial payment of an invoice issued pursuant to this ordinance from a responsible party, the County shall refund the amount received from the responsible party to the agency from which the County received reimbursement in accordance with that agency's regulations.

Section 10. Severability.

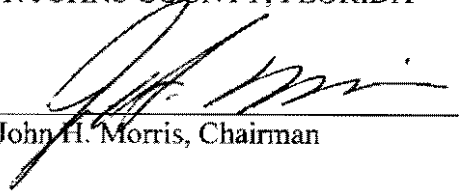
If any part of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remainder of this ordinance.

Section 11. Effective Date.

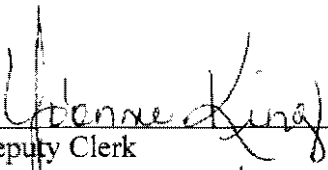
This ordinance shall be effective upon a certified copy being filed with the Florida Department of State.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, Florida this 30th day of December, 2013.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: 
John H. Morris, Chairman

ATTEST: Cheryl Strickland, Clerk

By: 
Deputy Clerk

Effective Date: 12/06/13

RENDITION DATE 12/05/13



MINUTES AND RECORDS
500 SAN SEBASTIAN VIEW
SAINT AUGUSTINE FL 32084

Ref.#: L3480-13
P.O.#: L3480-13

PUBLISHED EVERY MORNING SUNDAY THRU SATURDAY
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

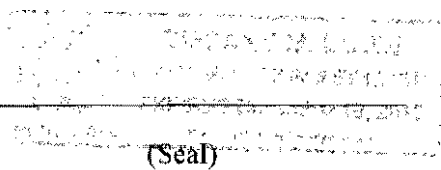
STATE OF FLORIDA,
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared **STEVEN SMITH**
who on oath says that he/she is an Employee of the St. Augustine Record,
a daily newspaper published at St. Augustine in St. Johns County, Florida;
that the attached copy of advertisement being a **NOTICE OF HEARING**
In the matter of **HAZMAT COST RECOVERY - HEARING NOV 19 & DEC 3, 2013**
was published in said newspaper on **11/12/2013**

Affiant further says that the St. Augustine Record is a newspaper published
at St. Augustine, in said St. Johns County, Florida, and that the said newspaper
heretofore has been continuously published in said St. Johns County, Florida,
each day and has been entered as second class mail matter at the post office in the
City of St. Augustine, in said St. Johns County, for a period of one year preceding
the first publication of the copy of advertisement; and affiant further says that
he/she has neither paid nor promised any person, firm or corporation any discount,
rebate, commission or refund for the purpose of securing the advertisement for
publication in the said newspaper.

Sworn to and subscribed before me this _____ day of _____
by Steven Smith who is personally known to me
or who has produced as identification

Ruffay M. Zocco
(Signature of Notary Public)



**NOTICE OF A PUBLIC HEARING
BY THE
ST. JOHNS COUNTY BOARD OF
COUNTY COMMISSIONERS**

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida, will hold a public hearing on **Tuesday, November 19, 2013, at 9:00 a.m. and Tuesday, December 3, 2013, at 9:00 a.m.** in the County Auditorium at the County Administration Building, 500 San Sebastian View, St. Augustine, Florida, to consider adoption of the following ordinance:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS, ST. JOHNS COUNTY, FLORIDA, CREATING THE ST. JOHNS COUNTY HAZARDOUS MATERIAL COST RECOVERY ORDINANCE, MAKING FINDINGS, STATING INTENT, PROVIDING SCOPE, PROVIDING DEFINITIONS, PROVIDING FOR LIABILITY OF RESPONSIBLE PARTIES FOR COSTS ASSOCIATED WITH A HAZARDOUS MATERIAL INCIDENT, PROVIDING FOR COLLECTION OF COSTS ASSOCIATED WITH A HAZARDOUS MATERIAL INCIDENT, PROVIDING FOR ENFORCEMENT, PERMITTING REIMBURSEMENT FROM OTHER SOURCES, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

The proposed ordinance is on file in the office of the Clerk of the Board of County Commissioners at the St. Johns County Administration Building, 500 San Sebastian View, St. Augustine, Florida and may be examined by parties interested prior to the public hearing.

Interested parties may appear at the public hearing and be heard with respect to the proposed ordinance.

If a person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the public hearing, he/she will need a record of the proceedings, and for such purposes he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

NOTICE TO PERSONS NEEDING SPECIAL ACCOMMODATIONS AND TO ALL HEARING IMPAIRED PERSONS: In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in the proceedings should contact ADA Coordinator, at (904) 209-0650 at the St. Johns County Administration Building, 500 San Sebastian View, St. Augustine, FL 32084. For hearing impaired individuals: Florida Relay Service: 1-800-955-8779, no later than 5 days prior to the date of the hearing.

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA
CHERYL STRICKLAND, ITS
CLERK
By: Yvonne King, Deputy Clerk
L3480-13 NOV. 12, 2013**



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

December 6, 2013

Ms. Cheryl Strickland
Secretary
St. Johns County
500 San Sebastian View
St. Augustine, Florida 32084

Attention: Ms. Yvonne King, Deputy Clerk

Dear Ms. Strickland:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Ordinance No. 2013-37, which was filed in this office on December 6, 2013.

Sincerely,

Liz Cloud
Program Administrator

LC/elr

2013 DEC -6 PM 4:13