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ORDINANCE NO. 2012-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 11, ARTICLE VII, OF THE PALM BEACH COUNTY CODE, KNOWN AS THE PALM BEACH COUNTY REGIONAL HAZARDOUS MATERIALS RESPONSE ORDINANCE OF 1998 (CODIFYING ORDINANCE 98-13, AS AMENDED); AMENDING SECTIONS 11-130, 11-132, AND 11-133, OF THE PALM BEACH COUNTY CODE, RELATING TO THE OVERSIGHT COMMITTEE, THE TECHNICAL REVIEW TEAM, COST RECOVERY, USE OF RECOVERY FUNDS, AND PENALTIES; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; PROVIDING FOR AN EFFECTIVE DATE.

22 WHEREAS, Chapter 11, Article VII of the Palm Beach County Code, known as the
23 Palm Beach County Regional Hazardous Materials Response Ordinance of 1998 (hereinafter
24 “Haz Mat Response Ordinance”), provides for regional hazardous materials response teams
25 comprised of fire departments within Palm Beach County; and

26 WHEREAS, the Haz Mat Response Ordinance provides for an oversight committee to
27 establish standards and review the effectiveness of the regional hazardous materials response
28 services, and a technical review team to review the regional hazardous materials response
29 teams; and

30 WHEREAS, the County desires to amend the Haz Mat Response Ordinance to clarify
31 certain provisions relating to the oversight committee, the technical review team, cost recovery,
32 use of recovery funds, and penalties, including clarifications based upon recommendations of
33 the Oversight Committee.

34 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
35 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

36
37 Section 1. Chapter 11, Article VII, Section 11-130, of the Palm Beach County Code, is hereby
38 amended as follows (additions indicated by underline; deletions indicated by strikethrough):

39 **Sec. 11-130. - Oversight committee.**

40 The board of county commissioners shall appoint a five-member oversight
41 committee to establish the standards and review the effectiveness of
42 delivering hazardous materials emergency response services on a

1 regional basis.

2 (1) *Membership.* The committee shall consist of one (1) member,
3 representing each of the following groups:

- 4 a. Palm Beach County ~~Public Health Unit~~ Health Department;
- 5 b. Palm Beach County ~~Municipal League of Cities~~;
- 6 c. Solid Waste Authority of Palm Beach County;
- 7 d. ~~Palm Beach County~~ Fire Chief's Association of Palm Beach
8 County; and
- 9 e. ~~Department Division of e~~Emergency ~~m~~Management.

10 Appointments shall be based on recommendations submitted by the
11 represented group. Each member shall be appointed to the oversight
12 committee in accordance with Palm Beach County PPM # CW-O-023
13 "Board Appointments."

14 (2) *Terms of office.* ~~Each~~ The members shall serve a term of three (3)
15 years terms. Members may be reappointed for a maximum of two (2)
16 consecutive terms. There shall be no limit on the number of terms an
17 individual may serve.

18 (3) *Meetings.* The oversight committee shall meet at least quarterly or
19 more often as determined by the membership.

20 (4) *Duties and responsibilities.* The responsibilities of the oversight
21 committee shall include, but not be limited to:

- 22 a. Recommend a solid waste authority fee schedule to provide a
23 partial funding source for the designated hazardous materials response
24 teams.
- 25 b. Oversee funds recovered as a direct result of response actions in
26 accordance with section 11-132 of this article.
- 27 c. Review, Rrecommend, establish, modify, and oversee
28 performance standards for the delivery of regional hazardous materials
29 response services, including initial response zones for the regional
30 hazardous materials response teams. Prior to modifying any initial
31 response zone, the Oversight Committee shall seek comment and
32 discussion from the regional hazardous materials response teams.
- 33 d. Monitor and evaluate the distribution of funds and supplies to each
34 of the hazardous materials response service providers.
- 35 e. Review the findings of the technical review team to assure
36 effectiveness of the regional delivery of hazardous materials response
37 services.
- 38 f. Submit a written report, at least annually, to the board of county
39 commissioners, on the effectiveness of the regional hazardous
40 materials response program.

41 (5) *Technical review team.* The oversight committee shall appoint
42 three (3) members and three (3) alternate members to serve on the
43 technical review team, based upon recommendations from the Fire Chief's
44 Association of Palm Beach County. Each member and alternate member
45 shall be a chief fire officer from a fire-rescue department within the county.
46 No member may serve on the technical review team while the team is
47 reviewing a service provider which employs the member or with whom the
48 member is otherwise directly affiliated. In such case, an alternate member
49 shall serve on the technical review team. An alternate member also may
50 serve on the technical review team when a member is otherwise

1 unavailable to serve. Alternates shall be called to service on a rotational
2 basis.

3 (6) *Responsibilities of the technical review team.*

4 a. Visit sites of each of the haz-mat service providers ~~twice~~ once a
5 year to assure compliance with the standards of performance as
6 approved by the oversight committee.

7 b. Examine service providers' records to document performance
8 criteria such as, but not limited to: Daily staffing of each haz-mat team,
9 turnout time, response time, minimum equipment accessibility, incident
10 documentation, personnel certifications and in-service training
11 programs.

12 c. Participate in each of the significant post incident analysis
13 conducted by the regional hazardous materials response teams.

14 d. Submit a written report annually, to the oversight committee on
15 each team's compliance with the established performance standards.

16 e. Examine the incidence of hazardous materials emergencies within
17 the entire county and report to the oversight committee on the
18 effectiveness of the regional hazardous materials response teams.
19

20 **Section 2.** Chapter 11, Article VII, Section 11-132, of the Palm Beach County Code, is hereby
21 amended as follows (additions indicated by underline; deletions indicated by strikethrough):

22 **Sec. 11-132. - Cost recovery.**

23 (a) *Generally.* Any person(s) responsible for causing or allowing a discharge
24 or threatened discharge of any hazardous substances which require response
25 actions by a regional hazardous materials response team(s), in order to protect
26 the public health, safety, welfare, or the environment, shall be required to
27 reimburse the responding team(s) ~~the county division of emergency~~
28 ~~management (DEM)~~ for the full amount of the cost of any and all response
29 actions. When responding to an emergency caused by a discharge or
30 threatened discharge of hazardous substances, the responding regional
31 hazardous materials response team(s) shall keep a detailed record of the costs
32 of all response actions. The cost of all response actions shall be calculated in
33 accordance with the following schedule.

34 (1) For all incidents of less than four (4) hours duration, the responsible
35 party shall reimburse the county responding regional hazardous materials
36 response team(s) for the costs of all expendable supplies used during
37 response actions, including, but not limited to: Firefighting foam, chemical
38 extinguishing agents, recovery drums, absorbent materials, protective
39 clothing, gloves and testing equipment.

40 (2) For all incidents of four (4) hours or greater in duration, the responsible
41 party shall reimburse the county responding regional hazardous materials
42 response team(s) for the costs of all expendable supplies used during
43 response actions, the costs of equipment and apparatus used during
44 response actions and the actual labor costs of personnel assigned to the
45 responding regional hazardous materials response team(s). The cost of the
46 equipment and apparatus shall be calculated in accordance with the current
47 FEMA Schedule of Equipment Rates, ~~state fire apparatus rate schedule~~, ~~as~~
48 ~~approved by the state department of emergency management~~, and as may
49 be periodically amended.

50 (3) For the purpose of this article, "duration" shall be considered as the time
51 period beginning with the arrival on scene of the first regional hazardous
52 materials response team member and ending with the release of the last

1 regional hazardous materials response team member from the scene and the
2 return to their home station.

3 (b) *Authority to recover costs.* Each responding regional hazardous
4 materials response team(s) that responds to an incident ~~The county, through its~~
5 ~~division of emergency management (DEM)~~ is hereby authorized to invoice and
6 collect the emergency response costs from the responsible party. In the event
7 that the responsible party does not reimburse the ~~county~~ responding team(s) for
8 the recoverable costs, said team(s) ~~DEM~~ is authorized to seek reimbursement
9 from the federal government in accordance with 40 CFR 310 or other applicable
10 reimbursement program. If a reimbursement program requires coordinated
11 billing among multiple responding teams, then the teams shall cooperate to do
12 so. Further, the county or any municipal jurisdiction may invoice the
13 responsible party for the allowable cost of ~~its these~~ municipal services which
14 were required to support the regional hazardous materials response team
15 during its emergency response actions, including, but not limited to, law
16 enforcement and public works services.

17 (c) *Use of recovery funds.* All monies recovered from the responsible party or
18 from the federal government as reimbursement for response actions shall be
19 used by the responding team(s) for the following purposes exclusively:

20 (1) To provide for the continual restocking of expendable supplies to ~~each of~~
21 ~~the~~ responding regional hazardous materials response team(s), ~~through a~~
22 ~~central supply and distribution warehouse.~~ ~~Such a central supply and~~
23 ~~distribution warehouse shall be administered by the county fire-rescue~~
24 ~~department.~~

25 (2) To provide for the replacement of damaged and/or destroyed non-
26 expendable equipment to ~~each of~~ the responding regional hazardous
27 materials response team(s).

28 (3) To provide for the enhancement of regional hazardous materials
29 response services.

30 (4) As otherwise recommended by the oversight committee.
31

32 **Section 3.** Chapter 11, Article VII, Section 11-133, Subsection (a), of the Palm Beach County
33 Code, is hereby amended as follows (additions indicated by underline; deletions indicated by
34 strikethrough):

35 **Sec. 11-133. - Penalties.**

36 (a) *Invoice.* Any person responsible for causing or allowing a discharge or
37 threatened discharge of a hazardous substance and who fails to reimburse the
38 county-responding regional hazardous materials response team(s) within thirty
39 (30) days from issuance of the invoice ~~shall~~ may be subject to a late fee in the
40 amount of eighteen (18) percent per annum of the total amount of the invoice.
41

42 **Section 4. APPLICABILITY:** This Ordinance shall constitute a uniform law applicable to
43 all unincorporated and incorporated areas in Palm Beach County to the extent provided by law.
44

1 **Section 5. REPEAL OF LAWS IN CONFLICT:** All local laws and ordinances in conflict
2 with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

3
4 **Section 6. SEVERABILITY:** If any provision, section, paragraph, sentence, clause, phrase,
5 or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be
6 unconstitutional, inoperative, or void, such holding shall not affect the remainder of this
7 Ordinance.

8
9 **Section 7. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:** The
10 provisions of this Ordinance shall become and be made a part of the Palm Beach County Code.
11 The sections of this Ordinance may be renumbered or relettered to accomplish such, and the
12 word ordinance may be changed to section, article, or other appropriate word.

13
14 **Section 8. CAPTIONS:** The captions, section headings, and section designations used in this
15 Ordinance are for convenience only and shall have no effect on the interpretation of the
16 provisions of this Ordinance.

17
18 **Section 9. EFFECTIVE DATE:** The provisions of this Ordinance shall become effective
19 upon filing with the Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
County, Florida, on this the ____ day of _____, 2012.

SHARON R. BOCK, CLERK

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Shelley Vana, Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: *Sharon Bock*
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of
_____, 2012.