

1 COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2
3 2013 Legislative Session

4 Legislative Day #

5
6 BILL NO. 2013-08

7
8 Introduced by: Charles County Commissioners

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10
11 HAZARDOUS MATERIALS

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16
17 Date introduced: 03 / 05 / 2013

18
19 Public Hearing: 04 / 03 / 2013 @ 6:00 p.m.

20
21 Commissioners Action: / /

22
23 Commissioner Votes: CQK: , RC: , KR: , DD: , BR:

24
25 Pass/Fail:

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27 Effective Date: / /

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29
30 Remarks:

31

1 COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2
3
4 2013 Legislative Session

5
6 Bill No. 2013-08

7 Chapter. No. 176

8 Introduced by Charles County Commissioners

9 Date of Introduction 03/05/2013

10
11 **BILL**

12 AN ACT concerning

13 HAZARDOUS MATERIALS

14
15 FOR the purpose of

16 Enacting provisions of the County Code to be in compliance with State law requirements
17 to establish a program to control, prevent and abate the release of hazardous materials into the
18 environment.

19
20 BY adding a new:

21 Chapter 176 – HAZARDOUS MATERIALS.

22 *Code of Charles County, Maryland*

23 *(1994 Edition, 1998 Supplement)*

24 **SECTION 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF CHARLES**
25 **COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as follows:**

26 CHAPTER 176

27 [Reserved]

28 HAZARDOUS MATERIALS

29 **SECTION 176.01. SHORT TITLE.**

30 THIS CHAPTER MAY BE CITED AS THE CHARLES COUNTY HAZARDOUS
31 MATERIALS ORDINANCE.

32
33 **SECTION 176.02. STATEMENT OF PURPOSE AND POLICY.**

NOTE: CAPITALS indicate language added to existing law.
[Brackets] indicate language deleted from existing law.

- 1 (A) TO ESTABLISH A PROGRAM TO CONTROL, PREVENT AND ABATE THE
2 RELEASE OF HAZARDOUS MATERIALS INTO THE ENVIRONMENT.
- 3 (B) TO PROTECT CITIZENS AND THE ENVIRONMENT OF CHARLES COUNTY
4 FROM THOSE HEALTH HAZARDS AND OTHER RISKS ATTENDANT TO THE
5 USE, STORAGE, DISTRIBUTION, POSSESSION OR TRANSPORTATION OF
6 HAZARDOUS MATERIALS.

7

8 **SECTION 176.03. APPLICABILITY.**

- 9 (A) THIS CHAPTER IS ADOPTED PURSUANT TO THE PROVISIONS OF THE
10 ANNOTATED CODE OF MARYLAND, ARTICLE 25A, §§ 5(A), (B), (J), AND (T);
11 §14-109 OF THE PUBLIC SAFETY ARTICLE; AND THE ENVIRONMENTAL
12 ARTICLE.
- 13 (B) THE CHAPTER SHALL APPLY TO ALL PERSONS WHO MANUFACTURE,
14 DISTRIBUTE, RECEIVE, STOCKPILE, SELL, USE, STORE, OR TRANSPORT
15 HAZARDOUS MATERIALS AS DEFINED HEREIN WITHIN THE ENTIRE AREA
16 OF CHARLES COUNTY, INCLUDING ALL INCORPORATED AND
17 UNINCORPORATED AREAS CONTAINED THEREIN.

18

19 **SECTION 176.04. DEFINITIONS.**

- 20 (A) ACT - THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF
21 1986 (SARA), 42 U.S.C. § 1102 ET SEQ., ALL AMENDMENTS THERETO AND
22 ALL FEDERAL REGULATIONS PROMULGATED PURSUANT TO THE ACT.
- 23 (B) ACT OF GOD - A NATURAL DISASTER OR OTHER NATURAL PHENOMENON,
24 THE EFFECTS OF WHICH COULD NOT HAVE BEEN PREVENTED OR
25 AVOIDED BY THE EXERCISE OF DUE CARE.
- 26 (C) AUTHORITY HAVING JURISDICTION (AHJ) - THE CHARLES COUNTY BOARD
27 OF COUNTY COMMISSIONERS, OR THEIR DULY APPOINTED DESIGNEE.
- 28 (D) AUTHORIZED RELEASE - A RELEASE OF HAZARDOUS MATERIALS IN
29 ACCORDANCE WITH A VALID PERMIT GRANTED BY A LOCAL, STATE, OR
30 FEDERAL AGENCY EXERCISING JURISDICTION OVER SUCH RELEASES.
- 31 (E) CODE - THE ANNOTATED CODE OF MARYLAND.
- 32 (F) CONSUMER PRODUCT - A MEANING STATED IN 15 U.S.C. 2052.
- 33 (G) COUNTY - CHARLES COUNTY, MARYLAND.

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- 1 (H) COST - ALL EXPENSES INCURRED BY THE AHJ OR OTHER LOCAL
2 EMERGENCY ORGANIZATIONS IN RESPONDING TO ANY ACTUAL OR
3 THREATENED HAZARDOUS MATERIALS SPILLS, LEAKS OR OTHER
4 RELEASES INTO THE ENVIRONMENT, AND FOR ANY REMEDIAL OR
5 REMOVAL ACTIONS TAKEN TO PROTECT AND SAFEGUARD THE PUBLIC
6 HEALTH, SAFETY, AND PROPERTY OR THE ENVIRONMENT. THE TERM
7 INCLUDES, BUT IS NOT LIMITED TO, COST INCURRED FOR PERSONNEL,
8 EQUIPMENT, MATERIALS, SUPPLIES, SERVICES, DAMAGE OR LOSS OF
9 EQUIPMENT, AND RELATED EXPENSES RESULTING FROM A RESPONSE.
- 10 (I) EMPLOYEE - ANY PERSON WHO WORKS, WITH OR WITHOUT
11 COMPENSATION, IN A WORKPLACE.
- 12 (J) EMPLOYER - ANY PERSON, FIRM, CORPORATION, PARTNERSHIP,
13 ASSOCIATION, GOVERNMENT AGENCY, OR OTHER ENTITY ENGAGED IN A
14 BUSINESS OR PROVIDING SERVICES WHICH HAS EMPLOYEES.
- 15 (K) ENVIRONMENT - THE NAVIGABLE WATERS OF THE STATE OF MARYLAND
16 CONTIGUOUS TO CHARLES COUNTY AND ANY OTHER SURFACE WATER,
17 GROUND WATER, DRINKING WATER SUPPLY, SOIL SURFACE, SUBSURFACE
18 STRATA, STORM SEWER, SANITARY SEWER OR TREATMENT PLANT WITHIN
19 CHARLES COUNTY, MARYLAND. THE TERM SHALL ALSO INCLUDE THE
20 AMBIENT ATMOSPHERE FOR PURPOSES OF REPORTING RELEASES
21 PURSUANT TO THE PROVISIONS OF THIS CHAPTER.
- 22 (L) FACILITY - ANY STRUCTURE, REAL PROPERTY, INSTALLATION, EQUIPMENT,
23 PIPE OR PIPELINE, WELL, PIT, POND, LAGOON, IMPOUNDMENT, DITCH,
24 LANDFILL, CONTAINER, TANK, OTHER STATIONARY ITEM, OR ANY
25 OTHER SITE OR AREA WHERE A HAZARDOUS MATERIAL HAS BEEN
26 DEPOSITED, STORED, DISPOSED OF; ABANDONED, PLACED OR OTHERWISE
27 SITUATED.
- 28 (M) HAZARDOUS MATERIAL - ANY SUBSTANCE, MATERIAL, COMPOUND, OR
29 CONSTITUENT COMPONENT THEREOF THAT IS TOXIC, FLAMMABLE,
30 EXPLOSIVE, CORROSIVE, RADIOACTIVE, AN OXIDIZER, AN ETIOLOGICAL
31 AGENT, CARCINOGENIC, OR HIGHLY REACTIVE WHEN MIXED WITH OTHER
32 SUBSTANCES, INCLUDING, BUT NOT LIMITED TO, ANY SUBSTANCE OR
33 MATERIAL WHICH IS DESIGNATED AS HAZARDOUS MATERIAL, PURSUANT

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1 TO THE FOLLOWING:

- 2 (1) HAZARDOUS MATERIALS ACT (49 U.S.C.A., SEC. 1801, ET SEQ.) OR 15
3 LISTED BY APPENDIX A, 40 CFR PART 302.
- 4 (2) LIST OF HAZARDOUS MATERIALS AND REPORTABLE QUANTITIES, AS
5 AMENDED, BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY
6 (EPA).
- 7 (3) SECTION 9601(14) OF THE COMPREHENSIVE ENVIRONMENTAL
8 RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (CERCLA),
9 42U.S.C. § 9601(14), AS AMENDED, AND REGULATIONS ENACTED
10 PURSUANT THERETO.
- 11 (4) MARYLAND ANNOTATED CODE, NATURAL RESOURCES ARTICLE, § 6-
12 102, AS IT DEFINES GAS, AS AMENDED.
- 13 (5) MARYLAND ANNOTATED CODE, NATURAL RESOURCES ARTICLE, § 6-
14 102, AS IT DEFINES OIL, AS AMENDED.
- 15 (6) MARYLAND ANNOTATED CODE, ARTICLE 56, § 135, AS IT DEFINES
16 MOTOR VEHICLE FUEL AS AMENDED.
- 17 (7) MARYLAND ANNOTATED CODE, ARTICLE, ARTICLE 56 § 135, AS IT
18 DEFINES PETROLEUM PRODUCTS, AS AMENDED.
- 19 (8) 40 CFR PART 302, TABLE 302.4, APPENDIX B, AS IT DEFINES ANY
20 RADIOLOGICAL OR NUCLEAR MATERIAL, MIXTURE OR SOLUTION OF
21 RADIONUCLIDE OR LOW LEVEL NUCLEAR WASTE.
- 22 (N) NORMAL APPLICATION OF PESTICIDES – AN APPLICATION PURSUANT TO
23 THE LABEL DIRECTIONS FOR APPLICATION OF A PESTICIDE PRODUCTS
24 REGISTERED UNDER SECTION 30 OR SECTION 24 OF THE FEDERAL
25 INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AS AMENDED (7 U.S.C.
26 135 ET SEQ.), OR PURSUANT TO THE TERMS AND CONDITIONS OF AN
27 EXPERIMENTAL USE PERMIT ISSUED UNDER SECTION 5 OF FIRA, OR
28 PURSUANT TO AN EXEMPTION GRANTED UNDER SECTION 18 OF FIRA.
- 29 (O) OIL - OIL OF ANY KIND OR IN ANY FORM, INCLUDING BUT NOT LIMITED TO
30 PETROLEUM, FUEL OIL, HEATING OIL, SLUDGE, OIL REFUSE, AND OIL
31 MIXED WITH WASTES OTHER THEN DREDGED SPOIL.
- 32 (P) PERSON - ANY INDIVIDUAL, BUSINESS, FIRM, PARTNERSHIP, CORPORATION,
33 COMMERCIAL ENTITY, UTILITY, ESTATE, INSTITUTION, GROUP, AGENCY,

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1 CONSORTIUM, ASSOCIATION, TRUST, JOINT STOCK COMPANY,
2 COOPERATIVE, JOINT VENTURE, LOCAL, STATE OR FEDERAL GOVERNMENT
3 AGENCY, OR ANY OTHER COMMERCIAL OR LEGAL ENTITY AND THEIR
4 SUCCESSOR, ASSIGNS, REPRESENTATIVES OR AGENTS.

5 (Q) PROHIBITED ACT - ANY ACT IN VIOLATION OF THIS CHAPTER.

6 (R) RELEASE - THE INTENTIONAL OR ACCIDENTAL SPILLING, LEAKING,
7 PUMPING, POURING, EMITTING, ESCAPING, EMPTYING, DISCHARGING,
8 INJECTING, LEACHING, DUMPING, OR DISPOSING OF A HAZARDOUS
9 MATERIAL INTO OR ONTO ANY FACILITY AS DEFINED HEREIN SO THAT THE
10 HAZARDOUS MATERIALS OR ANY COMPONENT THEREOF ENTER THE
11 ENVIRONMENT. THE TERM SHALL NOT APPLY TO (A) EMISSIONS FROM THE
12 ENGINE EXHAUST OF A MOTOR VEHICLE, ROLLING STOCK, AIRCRAFT,
13 VESSEL, OR A PIPELINE STATION PUMPING ENGINE, AND (B) THE NORMAL
14 AND LAWFUL APPLICATION OF FERTILIZER AND PESTICIDE;

15 (S) REMEDIAL ACTION - ANY MITIGATION AND RESPONSE ACTION
16 UNDERTAKEN TO PREVENT, MINIMIZE, CONTROL OR STOP THE
17 ANTICIPATED OR ACTUAL RELEASE OF HAZARDOUS MATERIALS AND
18 THEIR ASSOCIATED ADVERSE IMPACT SO THAT THEY DO NOT BECOME A
19 HAZARD TO HUMAN HEALTH, PROPERTY OR THE ENVIRONMENT. THE
20 TERM INCLUDES, BUT IS NOT LIMITED TO CONTAINMENT, CONFINEMENT,
21 PERIMETER CONTROL, DIKING, TRENCHING, COVERING, NEUTRALIZATION,
22 CLEANUP, RECYCLING OR REUSE, DIVERSION, DESTRUCTION,
23 SEGREGATION, COLLECTION, INCINERATION, AND THE ASSOCIATED
24 INITIAL AND ONGOING ENVIRONMENT MONITORING DEEMED NECESSARY
25 TO ASSURE THAT SUCH REMEDIAL ACTIONS ADEQUATELY PROTECT
26 PUBLIC HEALTH AND SAFETY AND THE ENVIRONMENT.

27 (T) REMOVAL - THE CLEANUP OR REMEDIATION OF RELEASED HAZARDOUS
28 MATERIALS FROM A FACILITY AND/OR THE ENVIRONMENT, AND SUCH
29 ACTIONS AS MAY BE NECESSARY OR APPROPRIATE TO MONITOR, ASSESS,
30 AND EVALUATE THE RELEASE OR THREATENED RELEASE OF HAZARDOUS
31 MATERIALS, THE DISPOSAL OF REMOVED MATERIAL, OR THE TAKING OF
32 SUCH ACTIONS AS MAY BE NECESSARY TO PREVENT, MINIMIZE, OR
33 MITIGATE DAMAGE TO PUBLIC HEALTH OR THE ENVIRONMENT.

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- 1 (U) REPORTABLE QUANTITY - THAT QUANTITY SET FORTH IN SECTION V OF T
2 HIS CHAPTER.
- 3 (V) RESPONSE - ACTIONS, INCLUDING, BUT NOT LIMITED TO, RESPONSE BY
4 LOCAL PUBLIC SAFETY AND EMERGENCY SERVICE AGENCIES, AS WELL AS
5 PRIVATE ENVIRONMENTAL ENGINEERING AND REMEDIATION
6 CONTRACTORS TAKEN TO INSURE THE PRESERVATION AND PROTECTION
7 OF THE PUBLIC HEALTH, SAFETY, AND THE ENVIRONMENT.
- 8 (W) RESPONSE COST SHALL MEAN THE FOLLOWING:
- 9 (1) MATERIALS AND SUPPLIES ACQUIRED AND EXPENDED BY THE AHJ
10 SPECIFICALLY FOR THE PURPOSE OF CONTROLLING OR MITIGATING THE
11 HAZARDOUS MATERIALS RELEASE;
- 12 (2) REPLACEMENT COSTS FOR AHJ'S EQUIPMENT THAT IS
13 CONTAMINATED BEYOND DECONTAMINATION, REUSE OR REPAIR;
- 14 (3) THE COST OF DECONTAMINATION OF AHJ'S EQUIPMENT
15 CONTAMINATED DURING THE RESPONSE;
- 16 (4) TOTAL COMPENSATION ARISING FROM THE RESPONSE, INCLUDING
17 BUT NOT LIMITED TO SALARY AND BENEFITS (FICA, INSURANCE)
18 TO INCLUDE REGULAR AND OVERTIME PAY, AT THE RATE SET
19 BY THE AHJ, FOR REGULAR FULL-TIME AND PART-TIME PERSONNEL,
20 AS WELL AS ALL RESPONSE COSTS ASSOCIATED WITH ANY
21 CONTRACTOR, SUBCONTRACTOR OR AGENT DEEMED NECESSARY
22 BY THE AHJ;
- 23 (5) SPECIAL TECHNICAL SERVICES SPECIFICALLY REQUIRED FOR THE
24 RESPONSE; FOR EXAMPLE, COSTS ASSOCIATED WITH THE TIME,
25 EQUIPMENT AND EFFORTS OF TECHNICAL OR SUBJECT
26 MATTER EXPERTS OR SPECIALISTS ENGAGED BY THE AHJ;
- 27 (6) ANY TESTS TO DETERMINED BY THE AHJ TO BE NECESSARY TO
28 IDENTIFY THE PHYSICAL, CHEMICAL OR BIOLOGICAL PROPERTIES
29 OF THE RELEASED MATERIAL, AS WELL AS INITIAL AND
30 ONGOING MONITORING OF THE SITE, OTHER AFFECTED AREAS, AND
31 THE AMBIENT ATMOSPHERE;
- 32 (7) OTHER SPECIAL SERVICES REQUIRED FOR THE RESPONSE, AS
33 DETERMINED BY THE AHJ;

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- 1 (8) COSTS ASSOCIATED WITH THE AHJ'S SERVICES, INCLUDING
2 HOUSING AND COST OF CARE, SUPPLIES AND EQUIPMENT USED TO
3 CONDUCT AN EVACUATION DURING THE RESPONSE; AND
4 (9) ADMINISTRATIVE COSTS, INCLUDING BUT NOT LIMITED TO
5 ATTORNEYS' FEES AND COURT COSTS INCURRED BY THE AHJ IN
6 ENFORCING THE PROVISIONS OF THIS CHAPTER.
- 7 (X) RESPONSIBLE PERSON - ANY PERSON WHO:
8 (1) IS THE OWNER OR OPERATOR OF A FACILITY OR VEHICLE IN OR
9 UPON WHICH A HAZARDOUS MATERIAL IS USED OR STORED;
10 (2) IS THE OPERATOR OR OWNER OF ANY FACILITY OR VEHICLE UPON
11 WHICH OR FROM WHICH A HAZARDOUS MATERIAL HAS BEEN
12 RELEASED;
13 (3) IS THE OWNER OR OPERATOR OF A FACILITY OR VEHICLE, WHO BY
14 CONTRACT, AGREEMENT OR OTHERWISE ARRANGED FOR DISPOSAL,
15 TREATMENT OR TRANSPORT OF A HAZARDOUS MATERIAL
16 THAT IS SUBSEQUENTLY RELEASED INTO THE ENVIRONMENT BY
17 ANY PARTY; AND
18 (4) ACCEPTS OR ACCEPTED ANY HAZARDOUS MATERIALS FOR
19 TRANSPORT TO A DISPOSAL OR TREATMENT FACILITY OR OTHER
20 SITE.
- 21 (Y) STORE - TO INTRODUCE OR MAINTAIN A HAZARDOUS MATERIAL INTO
22 CHARLES COUNTY FOR A PERIOD OF TEN (10) OR MORE DAYS.
- 23 (Z) USE - TO MAINTAIN, TREAT, PROCESS, HANDLE, GENERATE, OR DISPOSE OF,
24 A HAZARDOUS MATERIAL AT OR IN ANY FACILITY OR VEHICLE WITHIN
25 CHARLES COUNTY.
- 26 (AA) VEHICLE - ANY AUTOMOBILE, TRUCK, RAILROAD CAR, AIRPLANE,
27 WATERCRAFT OR OTHER MODE OF TRANSPORTATION WHICH CONTAINS
28 OR IS USED TO SHIP, CARRY OR TRANSPORT A HAZARDOUS MATERIAL.

29

30 **SECTION 176.05. DETERMINATION OF REPORTABLE QUANTITIES.**

- 31 (A) LISTED HAZARDOUS MATERIALS: THE QUANTITY APPEARING IN COLUMN
32 "RQ" AND REPORTABLE QUANTITIES" 40 CFR PART 302, AS AMENDED,
33 PUBLISHED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)

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1 SHALL BE THE REPORTABLE QUANTITY FOR THAT MATERIAL.

2 (B) UNLISTED HAZARDOUS MATERIAL: UNLISTED HAZARDOUS WASTES
3 DESIGNATED AS HAZARDOUS MATERIALS HAVE THE REPORTABLE
4 QUANTITY OF 100 POUNDS, EXCEPT FOR THOSE UNLISTED HAZARDOUS
5 WASTES EXHIBITING THE CHARACTERISTICS OF EP TOXICITY IDENTIFIED
6 IN 40 CFR 261.24. UNLISTED HAZARDOUS WASTES WHICH EXHIBIT EP
7 TOXICITY HAVE THE REPORTABLE QUANTITIES LISTED IN APPENDIX A TO
8 40 CFR PART 302, AS AMENDED, FOR THE CONTAMINANT ON WHICH THE
9 CHARACTERISTIC OF EP TOXICITY IS BASED. IF AN UNLISTED HAZARDOUS
10 WASTE EXHIBITS EP TOXICITY ON THE BASIS OF MORE THAN ONE
11 CONTAMINANT, THE REPORTABLE QUANTITY FOR THAT WASTE SHALL BE
12 THE LOWEST OF THE REPORTABLE QUANTITIES LISTED BY APPENDIX A TO
13 40 CFR PART 302, AS AMENDED, FOR THOSE CONTAMINANTS. IF AN
14 UNLISTED HAZARDOUS WASTE EXHIBITS THE CHARACTERISTICS OF EP
15 TOXICITY AND ONE OR MORE OF THE OTHER CHARACTERISTICS, THE
16 REPORTABLE QUANTITY SHALL BE THE LOWEST OF THE APPLICABLE
17 REPORTABLE QUANTITIES.

18 (C) THE REPORTABLE QUANTITY FOR RELEASES OF OIL TO THE WATERS OF
19 THE UNITED STATES OR ADJOINING SHORELINES IS ANY QUANTITY WHICH
20 VIOLATES APPLICABLE WATER QUANTITY STANDARDS OR CAUSES A FILM
21 OR SHEEN UPON OR DISCOLORATION OF THE SURFACE OF THE WATER OR
22 ADJOINING SHORELINES OR CAUSES A SLUDGE OR EMULSION TO BE
23 DEPOSITED BENEATH THE SURFACE OF THE WATER OR UPON ADJOINING
24 SHORELINES. (2) THE REPORTABLE QUANTITY FOR RELEASES OF OIL TO
25 THE ENVIRONMENT OTHER THAN RELEASES TO WATERS OF THE UNITED
26 STATES AND ADJOINING SHORELINE IS 56 GALLONS. (3) NOT
27 WITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, A RELEASE OF
28 OIL FROM A PROPERLY FUNCTIONING VESSEL ENGINE SHALL NOT BE
29 DEEMED TO BE IN REPORTABLE QUANTITY; HOWEVER, THIS PROVISION
30 SHALL NOT BE APPLICABLE TO OIL ACCUMULATED IN A VESSEL'S BILGES.

31 (D) RELEASES TO SANITARY SEWER SYSTEM: NOTWITHSTANDING ANY OTHER
32 PROVISION OF THIS SECTION, ANY RELEASE OF A HAZARDOUS MATERIAL
33 TO A SANITARY SEWER SYSTEM WHICH IS PROHIBITED UNDER

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1 APPLICABLE PRETREATMENT OR OTHER REGULATIONS OF ANY
2 SANITATION DISTRICT OPERATING WITHIN CHARLES COUNTY GOVERNING
3 DISCHARGES TO THE SANITARY SEWER SYSTEM SHALL BE DEEMED TO BE
4 DISCHARGED IN REPORTABLE QUANTITIES.

5 (E) COMPONENT HAZARDOUS MATERIALS RELEASE: A RELEASE OF A
6 MIXTURE OR SOLUTION OF WHICH A HAZARDOUS MATERIAL IS A
7 COMPONENT SHALL BE CONSIDERED TO BE A RELEASE IN A REPORTABLE
8 QUANTITY ONLY WHERE THE COMPONENT HAZARDOUS MATERIAL OF THE
9 MIXTURE OR SOLUTION IS RELEASED IN A QUANTITY EQUAL TO OR
10 GREATER THAN ITS REPORTABLE QUANTITY.

11
12 **SECTION 176.06. PROHIBITED ACTS.**

13 (A) NO PERSON SHALL PERMIT, CAUSE, OR THREATEN THE RELEASE OF A
14 HAZARDOUS MATERIAL INTO THE ENVIRONMENT WITHIN THE
15 TERRITORIAL BOUNDARIES OF CHARLES COUNTY, MARYLAND, UNLESS
16 SUCH RELEASE IS AUTHORIZED IN ACCORDANCE WITH AN APPROPRIATE
17 PERMIT GRANTED BY THE MARYLAND DEPARTMENT OF THE
18 ENVIRONMENT OR OTHER COMPETENT AUTHORITY EXERCISING
19 JURISDICTION, AND THAT SUCH RELEASE IS IN SUCH PLACE AND MANNER
20 AS WILL NOT CREATE A HAZARD TO HEALTH, PROPERTY OR THE
21 ENVIRONMENT.

22 (B) A RELEASE INCLUDES BUT IS NOT LIMITED TO AN OCCURRENCE:

- 23 (1) ARISING FROM A LACK OF MAINTENANCE ON ANY STORAGE
24 CONTAINER OR VEHICLE IN WHICH THE HAZARDOUS MATERIAL IS
25 STORED OR CONTAINED.
- 26 (2) THAT IS A RESULT OF THE LACK OF PROPER TRAINING AND
27 PROCEDURES ASSOCIATED WITH THE STORAGE, CONTAINMENT, USE,
28 OR TRANSPORT OF A HAZARDOUS MATERIAL.
- 29 (3) DUE TO THE HAZARDOUS SUBSTANCE NOT BEING STORED,
30 CONTAINED, TRANSPORTED, OR DEPOSITED IN COMPLIANCE WITH
31 APPLICABLE LOCAL, STATE OR FEDERAL LAWS OR REGULATION.
- 32 (4) THAT IS A RESULT OF A FAILURE TO INITIATE ACTION
33 RECOMMENDED BY ANY LOCAL, STATE OR FEDERAL AGENCY WITH

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1 REGARD TO STORAGE, CONTAINMENT, TRANSPORT, OR DEPOSIT OF
2 ANY HAZARDOUS MATERIAL.

3 (5) THAT IS THE RESULT OF A CRIMINAL ACT.
4

5 **SECTION 176.07. RECOVERY OF RESPONSE COSTS.**

6 (A) NOTWITHSTANDING ANY OTHER PROVISION OR RULE OF LAW, A
7 RESPONSIBLE PERSON, AS DEFINED HEREIN, SHALL PAY TO THE AHJ ALL
8 RESPONSE ACTION COSTS INCURRED IN RESPONDING TO AND MITIGATION
9 OF AN ACCIDENTAL OR INTENTIONAL RELEASE OF HAZARDOUS
10 MATERIALS.

11 (1) THE AHJ MAY INCLUDE OPERATIONAL, ADMINISTRATIVE,
12 PERSONNEL, PAYROLL AND LEGAL COSTS INCURRED FROM ITS
13 INITIAL RESPONSE ACTION UP TO THE TIME THAT IT RECOVERS ITS
14 COSTS. THE AMOUNT ATTRIBUTABLE TO ADMINISTRATIVE AND
15 LEGAL COSTS SHALL BE 15% OF THE AMOUNT PAID FOR THE
16 RESPONSE ACTION OR THE ACTUAL COSTS, WHICHEVER IS GREATER.

17 (A) THE AHJ SHALL PROMULGATE RULES AND REGULATIONS
18 WHICH SET FORTH THE RATES TO BE CHARGED FOR RESPONSE
19 COSTS UNDER THIS SECTION.

20 (B) THERE SHALL BE NO LIABILITY UNDER THIS CHAPTER FOR A
21 PERSON WHO CAN ESTABLISH THAT THE RELEASE OF A
22 HAZARDOUS MATERIAL WAS CAUSED SOLELY BY:

23 (1) AN ACT OF GOD; AND

24 (2) AN ACT OF WAR.
25

26 **SECTION 176.08. EMERGENCY NOTIFICATION REQUIREMENTS.**

27 (A) THE OWNER OR OPERATOR OF A FACILITY THAT MANUFACTURES
28 PRODUCES, USES, IMPORTS, EXPORTS, STORES, SUPPLIES OR DISTRIBUTES
29 ANY HAZARDOUS MATERIAL, AND THE OWNER OR OPERATOR OF A
30 VEHICLE THAT CONTAINS TRANSPORTS OR CARRIES ANY HAZARDOUS
31 MATERIAL WITHIN, THROUGH OR ACROSS CHARLES COUNTY SHALL
32 IMMEDIATELY REPORT THE RELEASE OR A HAZARDOUS MATERIAL. SUCH
33 NOTIFICATION SHALL BE MADE BY DIALING 9-1-1.

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1 (B) THE NOTIFICATION SHALL INCLUDE THE FOLLOWING TO THE EXTENT
2 KNOWN AT THE TIME OF THE NOTICE AND SO LONG AS ITS COLLECTION
3 DOES NOT DELAY THE NOTIFICATION:

- 4 (1) THE NAME AND TELEPHONE NUMBER OF THE PERSON MAKING THE
5 NOTIFICATION;
- 6 (2) THE TIME, LOCATION AND DURATION OF THE RELEASE;
- 7 (3) THE CHEMICAL NAME OR IDENTITY OF THE HAZARDOUS MATERIAL
8 INVOLVED IN THE RELEASE;
- 9 (4) ESTIMATED QUANTITY OF THE HAZARDOUS MATERIAL RELEASED
10 INTO THE ENVIRONMENT;
- 11 (5) THE MEDIUM INTO WHICH THE RELEASE OCCURRED;
- 12 (6) ANY KNOWN OR ANTICIPATED ACUTE OR CHRONIC HEALTH RISKS
13 ASSOCIATED WITH THE HAZARDOUS MATERIAL RELEASED; AND
- 14 (7) THE NAME AND TELEPHONE NUMBER OF THE PERSON TO BE
15 CONTACTED FOR FURTHER INFORMATION.

16
17 **SECTION 176.09. RIGHT OF ENTRY**

18 (A) THE AHJ MAY ENTER ONTO ANY PROPERTY WHEREIN A RELEASE OF A
19 HAZARDOUS MATERIAL HAS OCCURRED, AS WELL AS ADJACENT
20 PROPERTY ONTO WHICH THE RELEASED HAZARDOUS MATERIAL HAS
21 MIGRATED IN ORDER TO:

- 22 (1) RESPOND TO THE RELEASE;
- 23 (2) CONTAIN, CONTROL AND MONITOR THE RELEASE;
- 24 (3) MITIGATE OR OTHERWISE REMEDIATE THE RELEASE SITE; AND
- 25 (4) PERFORM ANY OTHER ACTIVITIES DEEMED NECESSARY PRESERVE
26 PUBLIC SAFETY AND TO CONTROL OR MITIGATE THE IMPACT OF
27 THE RELEASE.

28 (B) THE AHJ MAY DURING NORMAL BUSINESS HOURS, SCHEDULE AND
29 CONDUCT REGULAR AND PERIODIC SURVEYS OF ANY FACILITY OR
30 VEHICLE AND REQUEST INFORMATION FROM THE RESPONSIBLE PERSON
31 FOR THE PURPOSE OF PRE-PLANNING APPROPRIATE EMERGENCY
32 RESPONSE ACTIVITIES FOR THOSE HAZARDOUS MATERIALS
33 MANUFACTURED, PRODUCED, USED, STORED, SUPPLIED, IMPORTED,

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1 EXPORTED OR DISTRIBUTED AT, TO OR FROM THE FACILITY OR VEHICLE.
2 (C) SHOULD AT ANY TIME THE AHJ BE UNABLE TO DETERMINE THE CHEMICAL
3 NAME, IDENTITY, AMOUNT OR ANY OTHER REQUESTED INFORMATION FOR
4 ANY SUBSTANCE, LIQUID, MIXTURE, COMPOUND, MATERIAL OR PRODUCT
5 PRESENT AT OR WITHIN A FACILITY OR VEHICLE DUE NON-EXISTENT OR
6 IMPROPER LABELING, PLACARDING, OR RECORDKEEPING, THE AHJ IN ITS
7 SOLE DISCRETION MAY ELECT TO COLLECT A SAMPLE OF THE SUBSTANCE,
8 LIQUID, MIXTURE, COMPOUND, MATERIAL OR PRODUCT FOR LABORATORY
9 IDENTIFICATION. IN THE EVENT THE SAMPLE IS DETERMINED TO BE A
10 HAZARDOUS MATERIAL SUBJECT TO THE REGULATORY AUTHORITIES
11 CITED IN THIS CHAPTER, THE OWNER OR OPERATOR OF THE FACILITY OR
12 VEHICLE SHALL BE RESPONSIBLE TO PAY ALL COLLECTION AND
13 LABORATORY COSTS INCURRED BY THE AHJ.
14

15 **SECTION 176.10. CRIMINAL PENALTIES.**

- 16 (A) A PERSON SHALL BE GUILTY OF A MISDEMEANOR AND, UPON CONVICTION,
17 SHALL BE SUBJECT TO A FINE NOT TO EXCEED ONE THOUSAND DOLLARS
18 (\$1,000.) PER DAY, PER VIOLATION, AND IMPRISONMENT NOT TO EXCEED
19 SIX (6) MONTHS PER VIOLATION, OR BOTH, IF THE PERSON:
- 20 (1) KNOWINGLY MAKES ANY FALSE STATEMENT, REPRESENTATION OR
21 CERTIFICATION IN ANY APPLICATION, RECORD, REPORT, PLAN OR
22 OTHER DOCUMENT FILED OR REQUIRED TO BE MAINTAINED UNDER
23 THIS CHAPTER;
 - 24 (2) FALSIFIES, TAMPERS WITH OR KNOWINGLY RENDERS INACCURATE
25 ANY RECORDS, MONITORING DEVICE, OR PROCEDURES REQUIRED
26 TO BE MAINTAINED UNDER THIS CHAPTER; AND
 - 27 (3) KNOWINGLY VIOLATES ANY PROVISION OR FAILS TO PERFORM ANY
28 DUTY IMPOSED BY THIS CHAPTER.
- 29

30 **SECTION 176.11. MISCELLANEOUS PROVISIONS.**

- 31 (A) SEVERABILITY. IF ANY PROVISION, PARAGRAPH, WORD, SECTION OR
32 SUBSECTION OF THIS CHAPTER IS INVALIDATED BY ANY COURT OF
33 COMPETENT JURISDICTION, THE REMAINING PROVISIONS, PARAGRAPHS,

NOTE: CAPITALS indicate language added to existing law.
[Brackets] indicate language deleted from existing law.

1 WORDS, SECTIONS AND SUBSECTIONS SHALL NOT BE AFFECTED AND
2 SHALL CONTINUE IN FULL FORCE AND EFFECT.

3 (B) CONFLICT. ALL OTHER ORDINANCES OR PARTS OF OTHER ORDINANCES OR
4 LOCAL LAWS OF THE AHJ THAT CONFLICT OR ARE INCONSISTENT WITH
5 ANY PART OF THIS CHAPTER ARE HEREBY REPEALED TO THE EXTENT
6 OF SUCH CONFLICT OR INCONSISTENCY.

7 **SECTION 2.** BE IT FURTHER ENACTED, THAT THIS ACT SHALL TAKE EFFECT
8 FORTY-FIVE (45) CALENDAR DAYS AFTER IT BECOMES LAW.

9 ADOPTED THIS _____ DAY OF _____ 2013.

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COUNTY COMMISSIONERS
CHARLES COUNTY, MARYLAND

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Candice Quinn Kelly, President

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Reuben B. Collins, II, Esq., Vice President

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Ken Robinson

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Debra M. Davis, Esq.

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Bobby Rucci

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ATTEST:

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Denise Ferguson, Clerk to the Commissioners

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