

## Ordinance

### Recovery of Response and Cleanup Costs for Hazardous Material Spills

WHEREAS, the North Carolina General Statute Section G.S. 143-215.82, in addition to G.S. 153A-101, 153A-102 and 153A-121. et. Seq. provides for the establishment and enforcement of a County Hazardous Material Spill Clean-up Ordinance; and

WHEREAS, it has become necessary to safeguard the citizens of Alamance County and North Carolina by providing for the immediate containment and clean-up of hazardous material spills in order to promote the use and conservation of highways, lands and streams for the education, pleasure, and enrichment of the residents of Alamance County and the State as a whole; and

WHEREAS, Alamance County is the duly recognized governing body responsible for the protection of the land, air, water, natural resources, and environment of all lands within the boundaries of Alamance County; and

WHEREAS, transport truck Fuel and Oil Spills and other hazardous material spills on our highways and lands pose a direct threat to the environment, and health of residents through the contamination of soil and water by hazardous material releases; and

WHEREAS, it is the responsibility of Alamance County to enact Cleanup Ordinances and laws that will mitigate and prevent damages from transport truck Fuel and Oil spills, and in the event of a spill, assist and be reimbursed for the costs of the response and clean-up by the persons having control over the fuel, oil or hazardous substances in any cleanup efforts.

BE IT NOW THEREFORE ORDAINED, that the Board of County Commissioners does hereby establish this Ordinance for the Recovery of Response and Cleanup Costs for Hazardous Material Spills in Alamance County as follows:

#### **SECTION 1. - Authority to contain, control, abate and clean-up spills of hazardous materials and recover costs of clean-up.**

This Ordinance is adopted pursuant to the provisions of North Carolina General Statute Sections 153A-101, 153A-102, 153A-121, 143-215.82 and 143-215.94. Pursuant to these statutes, Alamance County has the authority to contain, control, abate and cleanup spills of hazardous materials and is authorized to recover all of the expenses and cost for the removal, abatement and/or clean-up actions.

The duties of the County Fire Marshal, Emergency Management Department, Volunteer Fire Departments, EMS and Alamance County Rescue Squad shall include containing, controlling, abating and cleaning up spills of hazardous material emergencies in the county. The County Fire Marshal, Emergency Management Department, Volunteer Fire Departments, EMS and Alamance County Rescue Squad have the authority to summarily remove, abate or remedy hazardous material spills in the county that are dangerous or prejudicial to the public health and/or public safety. The expense of the removal, abatement and/or clean-up action shall be the responsibility of and shall be paid by the person in control of the fuel, oil, or other hazardous substance that has spilled in accordance with N.C.G.S. Section 143-215.94.

**SECTION 2. - Purpose and intent.**

Pursuant to the North Carolina state environmental policy act, the Alamance County Board of County Commissioners adopts this article establishing a county policy to encourage the wise and safe use of the county's natural resources; to encourage public and governmental awareness of the environment, particularly concerning a hazardous waste spill, containment and clean-up management; and to require clean-up repayment responsibility from those persons having control over the fuel, oil or other hazardous materials or substances that have spilled on the highway or lands and streams of Alamance County. The intent of this Ordinance is to provide a mechanism for full repayment of all response and clean-up costs from the person or persons having control over the fuel, oil or other hazardous materials or substances that have spilled on the highway or lands and streams of Alamance County. More specifically, it is the intent of this Ordinance to require the person having control over the fuel, oil or other hazardous substance to be primarily responsible for all response, containment and spill clean-up costs regardless of the cause of the discharge or spill of the fuel, oil or other hazardous materials or substances. It is not the intention of this ordinance to exercise jurisdiction over any matter as to which the United States government has exclusive jurisdiction, or in any wise contrary to any governing provision of state or federal law, and no provision of this ordinance shall be so construed.

**SECTION 3. - Definitions.**

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Hazardous material* means any substance or material that poses an unreasonable risk to the health, safety and/or welfare of the public and all properties. Materials include, but are not limited to, fuel, oil, any element, compound or combination thereof which is flammable, corrosive, etc., that may have a detrimental effect on both operating and emergency personnel, the public, equipment, and/or the environment if released or spilled.

*Person Having Control over the Fuel, Oil, or other Hazardous Material* means the person or persons driving the vehicle hauling the fuel, oil or other hazardous material regardless of the cause of the spill of the fuel, oil, or other hazardous material.

*State Agency* includes every department, agency, institution, public authority, board, commission, bureau, division, council, member of council of state, or officer of the North Carolina state government.

**SECTION 4. - Injunctions and equitable relief.**

Fees or charges for the clean-up repayment from those persons having control over the fuel, oil or other hazardous materials or substances that have spilled on the highway or lands and streams of Alamance County shall be due within 30 days of billing.

Pursuant to the provisions of G.S. 153A-123(d) and (e), the county shall be entitled to pursue an injunction or other appropriate equitable remedy to restrain any violation of this Ordinance or to require compliance with any provision of this Ordinance.

**SECTION 5. - Charges.**

The following charges shall apply for the response and spill clean-up costs of fuel, oil or other hazardous material under this Ordinance:

Engine or Tanker	\$250 per hr.
Heavy Rescue	\$250 per hr.

Aerial Device	\$350 per hr.
Support Vehicles (Brush Truck, etc.)	\$125 per hr.
Ambulance	\$200 per hr.
Emergency Management Vehicle	\$45 per hr.
Fire Marshal Vehicle	\$45 per hr.
All responding personnel	1.5 X hourly rate
Materials used	Replacement cost + 10%
Materials damaged	Replacement cost + 10%
Mileage	Current Federal Rate

These fees may be amended by the Alamance County Board of Commissioners from time to time upon the adoption of a fee schedule and shall be payable to Alamance County.

**SECTION 6. - Billing.**

The County Fire Marshal shall be responsible for all billing and collection of clean-up and response costs under this Ordinance.

**SECTION 7. - Amendments.** The Alamance County Board of County Commissioners shall have the authority to amend this ordinance at any time.

**SECTION 8. - Effective Date.** The Ordinance shall become effective upon adoption.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Vice Chair

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner