

**ALPINE CHARTER TOWNSHIP
KENT COUNTY, MICHIGAN
GENERAL ORDINANCE NO. 19-01**

**HAZARDOUS CONDITION AND HAZARDOUS MATERIALS COST RECOVERY
ORDINANCE**

Section 1. Purpose.

The Township desires to protect itself from expenses resulting from responses to incidents involving hazardous materials or conditions. The Township has authority under MCLA 41.806a to adopt an Ordinance authorizing the recovery of these kinds of expenses. The Township has determined that adopting such an Ordinance is in the best interests of the public health, safety and welfare of the Township citizens and its visitors.

Section 2. Definitions.

The following terms are defined as follows:

"Fire Department Response" means coming to the scene of a fire or hazardous materials incident, or hazardous condition, or any investigation in connection with a fire, hazardous materials incident, accident or hazardous condition.

"Hazardous Condition" means any condition creating a concern for the physical welfare of persons in the immediate area of the situation (including downed utility lines or gas leaks not in a occupied structure), requiring a fire department response.

"Hazardous Materials" shall mean any materials classified as hazardous by any Federal, State or Local law, regulation, or other authority, and shall include, but not be limited to any chemical that is a combustible liquid, flammable gas, radioactive material, explosive, flammable, poison, organic peroxide, oxidizer, pyrophoric, unstable reactive, or water reactive or any other material that can cause serious disease or injury to humans.

"Incident" or a variation thereof shall mean any accident, emergency, activity, or other occurrence where a release of hazardous materials occurs, where there is a present danger of a release of hazardous materials, or where a hazardous condition exists. For purposes of this definition, a "release" shall include any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leeching, dumping, disposing or other spreading of material.

"Recoverable Expenses" shall mean, in connection with an Incident, all actual costs or expenses incurred by the Township, including but not limited to each of the following:

1. Charges for each fire department vehicle including but not limited to pumpers, water tenders, and other vehicles. Hourly rates for these charges shall be established by resolution of the Township Board.

2. Replacement costs for equipment that is contaminated beyond re-use or repair (such as self-contained breathing apparatus).

3. All personnel-related expenses incurred by the Township, including but not limited to wages, salaries, fringe benefits and insurance for full-time and part-time firefighters, overtime pay and related fringe benefit costs for hourly employees, and fire run fees paid to on call firefighters. These personnel related expenses will commence when the fire department has begun responding to the Incident and shall continue until all Township personnel have concluded hazardous materials incident related responsibilities.

4. Expenses of decontaminating and cleaning equipment.

5. Technical consulting services specifically required as a result of the Incident, including but not limited to technical experts or specialists not otherwise available to the Township.

6. Laboratory costs of analyzing samples taken during the Incident.

7. Costs of cleanup, storage or disposal of the released Hazardous Material.

8. Medical and hospital expenses incurred as a result of the Incident.

9. Legal, engineering, accounting, billing, collection and other administrative expenses incurred as a result of the Incident, including but not limited to efforts to recover expenses pursuant to this Ordinance.

"Responsible Party" shall mean, in connection with an Incident, any individual or entity that participated in, or whose actions or inactions were a proximate cause of an Incident, and any individual or entity (including an owner, tenant, occupant or holder of any interest in real estate, buildings, equipment or other real or personal property) who participated in or aided in the release of hazardous materials or who is responsible for a hazardous condition.

Section 3. Repeal.

That Ordinance No. 96-06, "Hazardous Material Expense Recover Ordinance" of Alpine Township, and all other ordinances or parts of ordinances in conflict herewith are repealed.

Section 4. Recovery of Expenses.

All Responsible Parties in connection with a Hazardous Condition or Materials Incident shall be responsible to the Township for the Recoverable Expenses relating to that Incident. This responsibility shall be in addition to any other penalties, obligations, or remedies provided by law. The liability of Responsible Parties under this Ordinance shall be strict as well as joint and several.

Section 5. Billing and Collection Procedures.

After the conclusion of an Incident, the Township Fire Chief (or the Fire Chief's designee) shall submit an itemized list of all known recoverable expenses to the Township Treasurer, who shall prepare and send an invoice to all Responsible Parties for payment. The Township Treasurer's invoice shall demand full payment within 30 days after receipt of the invoice. Any additional expenses that become known to the Township after mailing of the first invoice shall be billed in the same manner to the Responsible Parties. Any amounts unpaid after 30 days after the due date will bear a late charge of one percent (1%) per month, or fraction of a month, or the highest legal limit of interest permitted by law, whichever is less.

Section 6. Appeal Process.

Any Responsible Party may appeal the amounts listed in an invoice to the Township Board. The appeal shall be filed in writing delivered to the Township Supervisor not later than fifteen (15) days after the date the Responsible Party receives the invoice. The Township Board shall give an appealing party an opportunity to present evidence in support of their position. The appealing party shall bear the burden of proof. After receiving all evidence deemed relevant by the Township Board, the Township Board shall make a decision on whether the expenses are properly recoverable under this Ordinance. An appeal to the Township Board will not postpone or delay the applicable time periods for payment of any invoice issued under this Ordinance. The Township Board shall use reasonable efforts to make a decision no later than sixty (60) days after hearing the appeal.

Section 7. Violations: Other Remedies.

A violation of this Ordinance shall be a municipal civil infraction. The Township Fire Chief and the Township Supervisor shall each have authority to issue municipal civil infraction citations for violations of this Ordinance. The Township may pursue any other remedy or may institute any other appropriate legal action or proceeding to collect charges imposed under this Ordinance. To the extent permitted by law, the recovery of expenses imposed under this Ordinance does not relieve or limit the liability of any person under any other Local ordinance or State or Federal law, rule or regulation.

Section 8. Severability.

The various parts, sections and clauses of this Ordinance are severable. If a court rules that any part of this Ordinance or any other Township Ordinance is unconstitutional or invalid, the remainder of the Ordinance shall not be affected.

Section 9. Effective Date.

This Ordinance shall become effective thirty (30) days following publication of its provisions in the Grand Rapids Press, a local newspaper of general circulation in Alpine Township.

The foregoing amendment to the Alpine Township Zoning Ordinance was adopted at a regular meeting of the Alpine Township Board held on the 18th day of February, 2019 in a motion offered by Trustee May, with support from Trustee Schweitzer. The motion unanimously carried as follows in a roll call vote:

AYES: Cordes, Madura, May, Schweitzer, Townsend, J. Wahlfield, and M. Wahlfied.
NAY: None.
ABSENT: None.

ORDINANCE NO. 19-01 WAS DECLARED ADOPTED.



Greg Madura, Supervisor



Jean Wahlfield, Clerk

I certify that the foregoing to be a true and accurate copy of General Ordinance No. 19-01 adopted by the Alpine Charter Township Board in regular session held on February 18, 2019.



Jean Wahlfield, Clerk