

**ALPINE CHARTER TOWNSHIP
KENT COUNTY, MICHIGAN
GENERAL ORDINANCE NO. 96-6**

HAZARDOUS MATERIAL EXPENSE RECOVERY ORDINANCE

Section 1. Purpose.

The Township desires to protect itself from expenses resulting from responses to incidents involving hazardous materials. 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:

"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.

"Hazardous Materials Incident" or "Incident" shall mean any accident, emergency, activity, or other occurrence where a release of hazardous materials occurs or where there is a present danger of a release of hazardous materials. 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.

Section 3. Recovery of Expenses.

All Responsible Parties in connection with a Hazardous 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, joint and several, and without regard to fault

Section 4. Billing and Collection Procedures.

After the conclusion of a Hazardous Materials Incident, the Township Fire Chief (or an agent of the Fire Chief) 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 5. 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 the appealing parties an opportunity to present evidence in support of their position. The appealing parties 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 6. 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 action or proceeding to collect charges imposed under this Ordinance. 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 7. 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 8. Effective Date.

This Ordinance shall become effective seven (7) days following publication of its provisions in the Grand Rapids Press, a local newspaper of general circulation in Alpine Township unless an elector files intent to request a referendum within seven (7) days.

Motion by Heinbeck, with support from J. Brechting, to approve General Ordinance No. 96-6, as presented. Motion carried in a 7-0 roll call vote as follows:

AYES: F. Brechting, J. Brechting, Chase, Heinbeck, Roth, Schweitzer & Steffens.
NAY: None
ABSENT: None

ORDINANCE NO. 96-6 WAS DECLARED ADOPTED.

Sharon Steffens, Supervisor

Cynthia Heinbeck, Clerk

I certify that the foregoing to be a true and accurate copy of General Ordinance No. 96-6 adopted by the Alpine Charter Township Board in regular session held on August 19, 1996, and that it was published in Community Edition of The Grand Rapids Press on August 29, 1996.

Cynthia Heinbeck, Clerk

RESOLUTION #96-14

A RESOLUTION TO ESTABLISH THE RECOVERABLE EXPENSES FOR ALPINE CHARTER TOWNSHIP AS SET FORTH IN SECTION 2 OF ORDINANCE #96-6: HAZARDOUS MATERIAL EXPENSE RECOVERY ORDINANCE.

WHEREAS, Alpine Charter Township Board approved the Articles of Incorporation of the Hazmat Alliance on January 15, 1996, and

WHEREAS, Alpine Charter Township Board approved Ordinance #96-6: Hazardous Material Expense Recovery Ordinance, and

WHEREAS, hourly rates for Fire Department vehicles shall be established by Resolution of the Township Board.

NOW THEREFORE BE IT RESOLVED, that the following Fire Department vehicle charges be established in responding to hazardous material incidents:

| | |
|-------------|-------------------|
| Pumper: | \$150.00 per hour |
| Rescue Unit | \$100.00 per hour |
| Tanker | \$150.00 per hour |

A motion to approve Resolution #96-14 was presented by Chase, with support from Roth, and carried in a 7-0 roll call vote as follows:

AYES: F. Brechting, J. Brechting, Chase, Heinbeck, Roth, Schweitzer & Steffens.

NAY: None

ABSENT: None

THE RESOLUTION WAS DECLARED ADOPTED.

Cynthia Heinbeck, Clerk

I, Cynthia Heinbeck, Clerk of Alpine Charter Township, hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Board of Trustees of Alpine Charter Township, Kent County, Michigan, at a regular meeting held on August 19, 1996.

Cynthia Heinbeck, Clerk