

COUNTY OF ALPENA

COST RECOVERY ORDINANCE

This ordinance is enacted to establish charges for Emergency Services that respond to a Hazardous Materials or other large scale incidents

This ordinance is enacted to establish a method of recovery for county emergency services responding to an incident involving hazardous materials under Public Act 102 of 1990(compiled law 41.806a) and to provide for methods of collection for such charges.

Alpena County Michigan ordains:

Section 1: PURPOSE

In order to protect Alpena County and its governmental subdivisions from incurring extraordinary expenses from the utilization of county resources to respond to incidents involving hazardous materials or other incidents, the Alpena County Board of Commissioners authorizes the imposition of charges to recover reasonable and actual costs incurred by the county and its governmental subdivisions in response to any hazardous material release or other large scale incident.

Section 2: "GOVERNMENTAL SUBDIVISIONS" DEFINED

For the purpose of this ordinance, "Governmental Subdivisions" include, but are not limited to City of Alpena and its responding agencies, the townships of Alpena, Sanborn, Ossineke, Green, Long Rapids, Wellington, Wilson, Maple Ridge, and its responding agencies, District Health Department #4, Northeast Michigan Community Mental Health, Alpena Regional Medical Center, Alpena County Road Commission, Alpena County Haz-Mat Team and Alpena County Ambulance Services.

Section 3: "HAZAROUS MATERIALS" DEFINED

For the purpose of this ordinance, "hazardous materials" include but are not limited to a chemical that is combustible, a flammable gas, explosive, flammable, an organic peroxide, an oxidizer, a pyrophoric, unstable reactive or water reactive material, or any substance either biological, or organic agent which may pose a risk to people or the environment in Alpena County.

Section 4: "RELEASE" DEFINED

For the purpose of this ordinance, "release" is any spilling, leaking, pumping, pouring, Emitting, emptying, discharging, injecting, leaching, dumping, or disposing into the environment.

Section 5: **“OTHER LARGE SCALE INCIDENT” DEFINED**

For the purpose of this ordinance, “other large scale incident” includes but are not limited to incidents involving tanker truck fires or explosions, rail road derailments, gas well explosions and fires or any other incident which causes disruption of day to day activities in Alpena County and the use of county, governmental and contractual resources for a prolonged periods of time. A prolonged incident means any incident that lasts more than 24 hours in duration, whether it is or is not a locally declared state of emergency.

Section 6: **“RESPONSIBLE PARTY” DEFINED**

For the purpose of this ordinance, “responsible party” includes but is not limited to, any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, governmental entity, or any other legal entity that is responsible for a hazardous material release or large scale incident, either actual or threatened, or is the owner, occupant, or party in control of property onto which or from hazardous material release or a large scale incident occurs.

Section 7: **“CHARGES IMPOSED UPON RESPONSIBLE PARTY”**

Where the Police and Fire Departments of Alpena County, its political subdivisions, Alpena County Government, Alpena Regional Medical Center, Alpena County Emergency Medical Services, Alpena County Emergency Management, District Health Department #4, Northeast Michigan Community Mental Health and other agencies respond to a call for assistance in connection to a hazardous materials release, or other large scale incident, actual costs incurred by the responding agencies and their suppliers and sub-contractors shall be imposed upon responsible parties, but not limited to;

- A. Equipment Costs will be based upon the current costs for equipment usage. If the equipment used in an incident is damaged or destroyed, the “responsible party” shall be liable for repair or replacement of equipment,
- B. All personnel related costs incurred by Alpena County, its political subdivisions or contractors as a result of responding to a hazardous materials incident or large scale incident. Such costs may include, but are not limited to, wages, salaries, fringe benefits, insurance for full time, part-time, and contractual employees.
- C. Overtime pay and related fringe benefit costs for employees, and fees paid to on-call workers. Such personnel related charges shall commence after the first hour that responding parties have responded to a hazardous materials and other large scale event.
- D. Other expense incurred by Alpena County and its political subdivisions in response to a large scale incident or hazardous material incident, including but not limited to; rental or purchase of machinery, equipment, labor, consultants,

legal and engineering fees, medical, and hospitalization costs, the replacement of personal protective equipment, extinguishing agents, supplies, water purchased from municipal water supplies, transportation costs, meals, refreshments, lodging for personnel responding to a hazardous materials or large scale incident, lodging and meals for persons evacuated from an area during a hazardous materials incident or large scale incident.

- E. Charges to Alpena County and its political subdivisions imposed by any local, county, state, or federal government entities related to a hazardous materials event or large scale incident.
- F. Costs incurred for the cleanup of the equipment and site where the incident occurred, and return to acceptable standards.
- G. Costs incurred in accounting for all large scale incidents and hazardous materials related expenditures, including billing, collection costs, and legal fees.

Section 8: BILLING PROCEDURES

Within 30 days of the conclusion of a large scale incident or hazardous materials incident, the Department or Agency head of the responding agency shall submit a detailed listing of all known expenses to the Alpena County Treasurer, who shall prepare an invoice to the responsible party for payment. The Alpena County Treasurers invoice shall demand payment in full within 30 days of receipt of the invoice. Any additional expenses that become known to the department or agency heads of the responding agencies shall be billed in the same manner on a subsequent bill to the responsible party. For any amount due that remains unpaid after 30 days, Alpena County shall impose a late charge of one percent (1%) per month.

Section 9: OTHER REMEDIES

Alpena County and its political subdivisions previously mentioned may pursue any other remedy, or may institute any appropriate action or proceeding, in a court of competent jurisdiction to collect charges imposed under this ordinance. The recovery of charges imposed under this ordinance does not limit liability of responsible parties under local ordinance, state law, or federal law, rule or regulation.

Section 10: SEVERABILITY

Should any provision or part of the within ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this ordinance which shall remain in full force and effect.

Section 11: **PRE-EMPTION PROVISION**

To the extent any provision of this ordinance conflicts with or is preempted by any provision of the laws of the State of Michigan, said state law or provision thereof shall be deemed to control in that event, the controlling state law or provision is incorporated herein by reference and shall be enforced in accordance with the enforcement provisions of this ordinance.

Section 12: **EFFECTIVE DATE**

This ordinance shall take effect immediately upon approval of the Alpena County Board of Commissioners. All ordinances in conflict are hereby rescinded.

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