

TOWN OF SUGAR CREEK

ORDINANCE NO.: _____

Re: Fire Protection Charges – DUE Special Charges

WHEREAS, with the implementation of levy limits, towns in the State of Wisconsin have struggled, with their revenue lagging behind the rate of inflation; and

WHEREAS, in many communities, including the Town of Sugar Creek, the levy has seen little or no net new construction; and

WHEREAS, when the levy has little or no growth, it can lead to increased borrowing or towns cutting their road budgets in favor of providing fire and emergency medical services costs because when it comes to priorities, the health and safety of town residents come first; and

WHEREAS, there are levy limits in place that only allow towns to raise their levy if they have an increase in net new construction or the town gets elector approval to exceed the levy limit; and

WHEREAS, highway construction and maintenance, fire protection, and emergency medical services costs have all seen substantial increases, while town levies have been stagnant; and

WHEREAS, towns can issue a special charge for some services; and

WHEREAS, the special charges can only be issued for services rendered to real property; and

WHEREAS, the special charges typically do not affect the levy; and

WHEREAS, Wis. Stats. § 66.0602(2m)(b)(1) defines a covered service as: “Garbage collection, fire protection, snow plowing, street sweeping, or storm water management”; and

WHEREAS, 2017 Wisconsin Act 317 modified the negative adjustment that occurs when issuing special charges for a covered service; and

WHEREAS, fire protection is unique because Wis. Stats. § 60.55(2) governs how the town can pay for making fire protection generally available throughout the town; and

WHEREAS, Wis. Stats. § 60.55(2) allows the town to pass an ordinance charging property owners a fee for the cost of fire protection provided to their property according to a written schedule; and

WHEREAS, the levy limit law, if a town received fee revenues designated to pay for a covered service (i.e. garbage collection, fire protection, snow plowing, street sweeping, or storm water management) that was funded partially or totally in 2013 by the property tax levy, that town was required to reduce its levy limit by an amount equal to the estimated amount of fee revenue collected for providing the covered service; and

WHEREAS, 2017 Wisconsin Act 317 limits the amount by which a municipality must reduce its levy to the amount of levy dollars expended in 2013 for providing the covered service; and

WHEREAS, the Town of Sugar Creek expended the amount of \$61,963.00 in 2013 for providing fire protection to the township residents; and

WHEREAS, the Town of Sugar Creek budgeted the amount of \$144,457.00 in 2019 for providing fire protection to the Town residents; and

WHEREAS, it is budgeted that the Town of Sugar Creek will expend the amount of \$148,790.71 for fire protection services in 2020 for Town residents; and

WHEREAS, the Wisconsin Attorney General in OAG-01-15 has concluded that, pursuant to Wis. Stats § 60.55(2)(b), a town may assess a fire protection special charge for making fire

protection services generally available and not based on the incidents of fire calls at a property;
and

WHEREAS, the Attorney General has concluded that the special charge is a fee, not a tax, whose primary purpose is to recover costs for fire protection services, supervision or regulation, and not to obtain general revenue for the government; and

WHEREAS, the Wisconsin Attorney General in opinion OAG-01-15 has determined that the special charge for making fire protection services generally available may be assessed against the county; and

WHEREAS, the Town has consulted with the Elkhorn Area Department Fire Chief regarding the cost of providing fire protection; and

WHEREAS, the Town Engineer has worked with the Elkhorn Area Department Fire Chief to create an appropriate schedule of the costs associated with providing fire protection to real property;

NOW, THEREFORE, the Town Board for the Town of Sugar Creek, located in Walworth County, Wisconsin, does hereby ordain as follows:

SECTION 1: Definitions:

- a. "Commission" means the Advisory Board of the Elkhorn Area Fire Department created pursuant to an Intermunicipal Cooperative Agreement.
- b. "District" means Town of Sugar Creek.
- c. "Domestic User Equivalent" or "DUE" means a single family dwelling unit located on real property.
- d. "Intergovernmental Agreement" means the most recent agreement by and between the Towns of Sugar Creek, Lafayette and Geneva, and the City of Elkhorn, regarding the provision of fire protection services.
- e. "Services" means fire protection services provided to the Town by the Commission pursuant to the Intergovernmental Agreement.

- f. "Town" means the Town of Sugar Creek, located within Walworth County, Wisconsin.
- g. "Town Board" means the governing body of the Town of Sugar Creek.

SECTION 2.0. Authority. This ordinance is enacted pursuant to Section 60.55, 66.0301 and 66.0227, Wis. Stats. for the purpose of providing for the funding of the Services within specified areas of the Town.

SECTION 3.0. Geographic Application. This Ordinance applies to all real property located within the Town which is included within the District.

SECTION 4.0. Special Charges. There is hereby imposed upon all real property described in Section 3.0 above, a special annual charge for the provision of Services to such properties. Such charges shall be annually established by the Town of Sugar Creek, by means of adoption of a written charge schedule on or before October 15 of each year commencing with the year 2019. The charges shall be sufficient in the amount to allow the Town to pay in its entirety, minus the amount expended in 2013, the amount of the Town's annual contribution for such services as required under the Intermunicipal Cooperation Agreement. With respect to the annual special charges, the following shall apply:

- a. Special charges shall be based on a methodology utilizing DUEs. The total amount of the required contribution for any year shall be divided by the total number of DUEs located within the geographic area described in Section 3.0 above, to arrive at a stated dollar amount per single DUE.
- b. Each platted lot or each tax parcel within the foregoing geographic area shall be assigned a minimum number of DUEs as determined in the annual schedule of fire protection charges approved the Town Board. Additional DUEs shall be assigned depending on the type of structures and/or use of such lot or parcel.
- c. The Town Board shall annually assign to each lot or parcel a number of DUEs in accordance with the Schedule A (the schedule of fire protection charges) attached hereto and incorporated herein.
- d. Special charges shall not be paid in installments and are to be paid within the time determined by the Town Board when adopting the schedule of charges. Any charge not so paid when due is delinquent.
- e. A delinquent special charge shall bear interest at the rate of 18.0% per annum from due date until paid; and shall become a lien on the real property against which it is imposed as of the date of the delinquency. The delinquent special charge shall be included in the current tax roll for collection and settlement under Chapter 74 of the Wisconsin Statutes.


- f. The Town may collect delinquent special charges in any other manner provided for by law or equity, including a suit therefore in the circuit court.

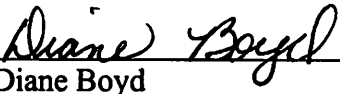
SECTION 5.0. DUE Appeals. Any person aggrieved by the determination of DUEs applicable to the lot or parcel of such person or as to the amount of the special charge associated therewith may appeal the matters to the Wisconsin Tax Appeals Commission, as provided for in Section 66.0628(4), Wis. Stats.

SECTION 6.0. Effective Date. This ordinance shall become effective upon its adoption and publication or posting as required by applicable law; and shall first apply to recover contributions required to be made by the Town for services to be provided by the Commission in the year 2020 and thereafter.

Adopted this 15th day of July, 2019

Town Board of Sugar Creek

By: 
Dale Wuttke
Town Chairperson

Attest: 
Diane Boyd
Town Clerk

Ayes: 2
Neys: 0
Absent: 1