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THE LEVYING OF FIRE DUES
TOWN OF AVOCA TO BE COLLECTED BY THE COUNTY CLERK'S OFFICE; CALLING FOR A SPECIAL ELECTION
ORDINANCE NO.

AN ORDINANCE APPROVE(G THE DEPARTMENT DUES ON THE BY THE BENTON COUNTY COLLECTOR'S OFFICE; SPECIAL ELECTION ON THE MATTER OF THE LEVY OF FIRE DUES; REPEALING AVOCA ORDINANCE NO. 83; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, it is necessary and desirable for the Town of Avoca, Arkansas, to enact an Ordinance calling for a special election to authorize a Benton County official to collect and remit to the Avoca Fire and Rescue Department the annual fire dues charged by the Avoca Fire and Rescue Department as consideration of its providing fire protection services to the incorporated Town of Avoca; and

WHEREAS, A-C-A. S14-20-108 (e) sets out the procedure that allows the incorporated Town of Avoca to enact and approve an Ordinance calling for an election to authorize a Benton County official to collect and remit to the Avoca Fire and Rescue Department the annual fire dues charged by the Avoca Fire and Rescue Department as consideration of its providing fire protection services to the incorporated Town of Avoca; and

WHEREAS, the request has been signed by the fire chief and all other omcers of the Avoca Fire and Rescue Department Board of Directors (attached hereto as Attachment and has been duly filed, along with a map of the area in which the Avoca Fire and Rescue Department provides fire protection (attached hereto as Attachment "B"), with the County Clerk of Benton County, Arkansas; and

WHEREAS, if the levy of the dues is approved, the dues shall be listed annually on the property tax statements and collected at the same time and in the same manner as real property taxes in accordance with Act 201 of 2003; and

WHEREAS, the purpose of this Ordinance is to call a special election on the question of the levy of the annual volunteer fire department dues on each residence and business/commercial building for which the Avoca Fire and Rescue Department provides fire protection and to designate the County Official to collect and remit to the Avoca Fire and Rescue Department the annual dues as levied;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVOCA, ARKANSAS:

Section 1: General Definitions. For the purposes of this Ordinance, "Governing Body" is defined as the duly elected council of the incorporated Town of Avoca.

Section 2: Inclusion Within Fire and Rescue Fire Protection Area: The incorporated Town of Avoca will continue to utilize the fire protection services of the Avoca Fire and Rescue do any and all things necessary to call and hold the special election as herein provided.

Section 8: Election Costs: The incorporated Town of Avoca shall bear the cost of the election pursuant to A-C.A. {14-20-108 (D) and this election shall occur no later than August 1, 2010.

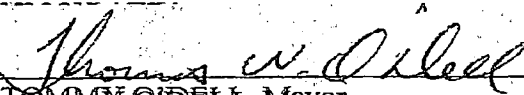
Section 9: Collection of Dues: The County Collector is hereby designated as the county official to collect the annual dues levied if approved by a majority of those voting on the issue at the election; and the County Treasurer is hereby designated as the county official to remit the annual dues collected by the Collector if approved by a majority of those voting on the issue at the election.

Section 10: Severability of Parts of Ordinance: It is hereby declared to be the intention of the Avoca Town Council that each section of this Ordinance is severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decrees of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of the Ordinance.

Section 11: Repealing Clause: All Ordinances or part of Ordinances in conflict herewith are hereby repealed. Avoca Ordinance No. 83 is specifically repealed.

Section 12: Emergency Clause: It is declared that an emergency exists in that the lack of fire protection within the incorporated limits of the Town of Avoca endangers the health and safety of the electors and citizens of Avoca and this Ordinance, being necessary for the proper protection and safety of the citizens and businesses within the Town limits of Avoca, and this Ordinance being necessary for the preservation of the health and safety of the citizens and electors of Avoca shall take effect and be in effect from its passage and approval PASSED AND APPROVED this 9th day of February, 2010.

APPROVED:



TOMMY O'DELL, Mayor

ATTEST:



DIANE BOWEN, City Recorder/Treasurer

(a)(1)(A) The quorum court of each county, upon request filed with the quorum court by one (1) or more volunteer fire departments in the county, may adopt an ordinance authorizing a designated county official to collect and remit to the volunteer fire department the annual or quarterly dues charged by the volunteer fire department in consideration of providing fire protection to unincorporated areas in the county.

(B)(i)(a) When a quorum court receives a request for the levy of volunteer fire department dues and the request has been signed by the fire chief and the chair and secretary of the board of directors, if any, of a volunteer fire department and filed with the county clerk, the quorum court by ordinance shall call for an election on the issue of the levy of the volunteer fire department dues on each residence and on each business having an occupiable structure .

(b)(1) The issue may be placed on the ballot at a special election by order of the quorum court in accordance with 7-11-201 et seq.

(2) The special election shall be held by August 1.

(c)(1) If the levy is approved by a majority of those voting on the issue, the dues shall be listed annually on real property tax statements and collected by the county collector at the same time and in the same manner as real property taxes.

(2)(A) The county collector shall report delinquencies to the volunteer fire department for collection.

(B) A volunteer fire department may collect dues that have become delinquent and may enforce collection by proceedings in a court of proper jurisdiction.

(ii) The cost of the election shall be borne by the volunteer fire department that requested the levy.

(2) The ordinance enacted by the quorum court shall set forth the terms and conditions on which the dues are to be collected by the county and for the remission of the dues to the volunteer fire department.

(3) However, an active member of a volunteer fire department whose annual or quarterly dues are collected in this manner may be exempt from the annual or quarterly dues charged by the volunteer fire department at the discretion of the volunteer fire department in consideration of providing services to the volunteer fire department.

(b)(1) The quorum court by majority vote may designate the geographical area that a volunteer fire department serves.

(2) Upon request by a volunteer fire department, the quorum court of each county involved may authorize a volunteer fire department to serve a geographical area to extend across the county boundary lines.

(c) The quorum court may establish its own countywide fire department, either regular or voluntary.

(d) This section does not change the authority of intergovernmental cooperation councils to enter into reciprocal agreements or to distribute funds under 14-284-401 et seq. and 26-57-614.

(e)(l) If approved by ordinance by the governing body of an incorporated town or a city of the second class on the request of and signed by the fire chief and the chair and secretary of the board of directors, if any, of a volunteer fire department, an incorporated town or a city of the second class located in the volunteer fire department district that is not served by a fire department may be included in the fire protection area with the dues levied and collected in the same manner as in the unincorporated areas served by the volunteer fire department district.

(2)(A) The governing body of the incorporated town or city of the second class by ordinance shall call for an election on the ordinance under subdivision (e)(l) of this section.

(B) The issue may be placed on the ballot at a special election by order of the governing body in accordance with 7-11-201 et seq., and the special election shall be held by August 1.

(C) If the issue is approved by a majority of those voting on the issue, the incorporated town or city of the second class shall be served by the volunteer fire department district with the dues levied and collected in the same manner as in the unincorporated areas served by the volunteer fire department district.

(D) The cost of the election shall be borne by the governing body of the incorporated town or city of the second class that called for the election.

(O At the discretion of a volunteer fire department, a church served by a volunteer fire department may be exempt from dues if the church is exempt from real property taxes.

History. Acts 1977, No. 512, 1; A.S.A. 1947, 17-455; Acts 1991, No. 1038, 1; 1995, No. 744, 1; 2001, No. 984, 1, 2; 2003, No. 201, 1; 2005, No. 2145, 18; 2007, No. 96, 1; 2007, No. 1049, 36; 2009, No. 300, 1; 2009, No. 1480, 52.

A.C.R.C. Notes. Acts 2007, No. 96, 2, provided: This act shall not be construed to invalidate any election under Arkansas Code 14-20-108 held prior to the effective date of this act that levied volunteer fire department dues only on residences.

Amendments. The 1995 amendment added (b)(2) and (d).

The 2001 amendment redesignated former (a)(l) as present (a)(1)(A); in (a)(1)(A), deleted may following each county and inserted it preceding adopt an ordinance, and inserted or departments; added (a)(1)(B); in (b)(l), substituted court by majority vote may for court may, by majority vote, and deleted and may then direct that the property owners of the area pay dues to be established by the court, which shall become a lien upon the property within the geographical area from the end.

The 2003 amendment substituted real property for personal property twice in (a)(1)(B)(i)(c).

The 2005 amendment added (a)(1)(B)(iii).

The 2007 amendment by No. 96 inserted and on each business having an occupiable structure in (a)(1)(B)(i)(a).

The 2007 amendment by No. 1049 rewrote (a)(1)(B)(i)(b) and (c).

The 2009 amendment by No. 300 inserted quorum in (a)(1)(A), (b), and (c); rewrote (a)(1)(B); added (e); and made minor stylistic changes.