

VILLAGE OF DUPO, ILLINOIS

ORDINANCE NO. 20-06

**AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN
INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF DUPO,
ILLINOIS AND SUGARLOAF TOWNSHIP**

ADOPTED BY THE
VILLAGE BOARD OF TRUSTEES
OF THE
VILLAGE OF DUPO, ILLINOIS
THIS 6th DAY OF APRIL, 2020

Published in pamphlet form by
authority of the Village Board
of Trustees of the Village of
Dupo, St. Clair County, Illinois,
this 6th day of April, 2020.

ORDINANCE NO. 20-06

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF DUPO, ILLINOIS AND SUGARLOAF TOWNSHIP

WHEREAS, the Village of Dupo, St. Clair County, Illinois is a duly created, organized and validly existing municipality of the State of Illinois under the 1970 Illinois Constitution and the laws of the State of Illinois, including particularly the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto; and

WHEREAS, a public meeting was held in the Village of Dupo, Illinois at the Dupo Village Hall, 107 N. Second Street, on April 6, 2020 at 7:00 pm, before the Village Board of Dupo and notice of said meeting was duly given; and

WHEREAS, both the Village of Dupo, Illinois ("Village") and Sugarloaf Township, Illinois ("Township") are authorized to enter into intergovernmental agreements pursuant to Article VII, § 10 of the Constitution of the State of Illinois and the provisions of the Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq.*; and

WHEREAS, the Village of Dupo currently provides wastewater treatment services to the Township; and

WHEREAS, the Village and the Township have determined that an agreement which sets a fair rate for wastewater treatment services is necessary; and

WHEREAS, the Village has determined that it would be in the best interest of the welfare of the citizens and public safety and welfare of the citizens of the Township to engage in an intergovernmental agreement in which the Village will provide a wastewater treatment services to the Township for a specified rate. Said agreement is attached hereto as **Exhibit A**.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DUPO, ILLINOIS:

Section 1: Recitals. The aforementioned recitals are hereby adopted as findings by the Village Board and incorporated herein.

Section 2: Authorization. Intergovernmental Agreement Between the Village of Dupo, Illinois and Sugarloaf Township For Wastewater Treatment Services attached hereto as **Exhibit A**, shall be and is hereby approved by the corporate authorities, and the Mayor is hereby authorized and directed to execute, and the Village Clerk is hereby authorized to attest the signature on said agreement.

Section 3: Severability of Provisions. Each section, paragraph, sentence, clause and provision of this Ordinance is severable, and if any provision is held unconstitutional or invalid

for any reason, such decision shall not affect the remainder of the Ordinance, nor any part thereof, other than that part affected by such decision.

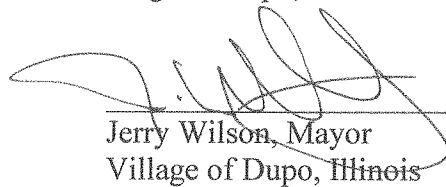
Section 4: Conflict. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 5: Effective. This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED this 6th day of April, 2020 by the Village Mayor and the Village Board of Trustees of the Village of Dupu, St. Clair County, Illinois, and deposited and filed in the office of the Village Clerk in said Village on that date.

<u>Trustees</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Chris Ragsdale	<u>X</u>	_____	_____	_____
Ben Kenner	<u>X</u>	_____	_____	_____
James Smith	<u>X</u>	_____	_____	_____
Joe Basinski	<u>X</u>	_____	_____	_____
Ken Phillips	<u>X</u>	_____	_____	_____
Kerry Foster	<u>X</u>	_____	_____	_____

APPROVED AND PASSED by the Mayor of the Village of Dupu, Illinois this 6th day of April, 2020.



Jerry Wilson, Mayor
Village of Dupu, Illinois

ATTEST:


MARK NADLER, VILLAGE CLERK

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF ST. CLAIR)

CERTIFICATE OF PUBLICATION

I, Mark Nadler, certify that I am the duly elected and acting Village Clerk of the Village of Dupu, Illinois.

I further certify that on the 6th day of April, 2020, the Corporate Authorities of the Village of Dupu, Illinois, passed and approved Ordinance No. 20-06, entitled:

**AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN
INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF DUPO,
ILLINOIS AND SUGARLOAF TOWNSHIP**

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 20-06, including the ordinance and a cover sheet thereof, was prepared, and a copy of such ordinance was posted in the Dupu Village Hall, commencing on April 6, 2020 and continuing for at least ten (10) days thereafter. Copies of such ordinance were also made available for public inspection upon request in the office of the Village Clerk.

DATED at Dupu, Illinois this 6th day of April, 2020.


MARK NADLER, Village Clerk

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF ST. CLAIR)

CERTIFICATE OF TRUE COPY

I, Mark Nadler, certify that I am the duly elected and acting Village Clerk of the Village of Dupu, Illinois, and as such I am the keeper of the books, records, files and corporate seal of said Village.

I do further certify that Ordinance No. 20-06, entitled:

**AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN
INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF DUPO,
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to which this certificate is attached, is a true, perfect, complete and correct copy of said ordinance as adopted at a regular meeting of the Dupu, Illinois Village Council held on the 6th day of April, 2020.

IN WITNESS WHEREOF, I have made and delivered this certificate for the uses and purposes hereinabove set forth this 6th day of April, 2020.



MARK NADLER, Village Clerk

(SEAL)

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE VILLAGE OF DUPO, ILLINOIS AND SUGARLOAF TOWNSHIP
FOR WASTEWATER TREATMENT SERVICES**

This Intergovernmental Agreement, by and between the Village of Dupo, County of St. Clair, State of Illinois (hereinafter “the Village”) and Sugarloaf Township, County of St. Clair, State of Illinois (hereinafter “Sugarloaf Township”)(hereinafter collectively referred to as “the Parties”).

WITNESSETH:

WHEREAS, the Village is a public agency as defined by the Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq*; and

WHEREAS, Sugarloaf Township is a public agency as defined by the Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq*; and

WHEREAS, the Village is the owner and operator of a wastewater treatment facility located within the corporate limits of the Village of Dupo, Illinois, and will provide treatment for the wastewater generated from Sugarloaf Township; and

WHEREAS, Sugarloaf Township desires wastewater service from the Village to treat wastewater collected within the corporate limits of Sugarloaf Township by Sugarloaf Township’s collection system; and

WHEREAS, both the Village and Sugarloaf Township are authorized to enter into intergovernmental agreements pursuant to Article VII, § 10 of the Constitution of the State of Illinois and the provisions of the Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq*.; and

WHEREAS, the Village and Sugarloaf Township have mutually determined that it would be in the best interest of the public health, safety, and welfare of the citizens of both the Village and Sugarloaf Township to engage in an intergovernmental agreement in which the Village will provide wastewater treatment services to Sugarloaf Township at a rate to be fully described below, for the term of **One (1) year** to commence on **March 3, 2020** and terminate on **March 3, 2021**.

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants herein contained, the Village of Dupo, Illinois, and Sugarloaf Township, do hereby agree as follows:

I. DEFINITIONS

All words, unless otherwise specified herein shall have the same meaning as their ordinary and common usage, to the extent that such ordinary and common usage does not contradict or otherwise disagree with the meaning of terms set forth in the Village of Dupo Municipal Code and more specifically, the definitions and meanings of words specifically defined in Chapter 32 of the Village of Dupo Municipal Code.

II. SEWER CONSTRUCTION

(a) Connection Facilities

Sugarloaf Township will transport discharged wastewater to the Village's wastewater treatment facility. Such equipment used in the transport of wastewater will be the property of Sugarloaf Township, and Sugarloaf Township shall be solely responsible for the operation and maintenance thereof. Sugarloaf Township shall use good faith efforts to maintain such equipment in a commercially reasonable manner.

(b) Connection Point

The wastewater discharged from Sugarloaf Township shall connect to the Village's system at the following location:

100 N. Coulter Road, Dupu, Illinois; and

Connection Point at Florence Avenue, Dupu, Illinois.

III. VILLAGE OF DUPO TO PROVIDE WASTEWATER TREATMENT SERVICES

(a) Provision of Treatment Services

Sugarloaf Township agrees to discharge, and the Village agrees to treat, all wastewater originating in Sugarloaf Township. The foregoing notwithstanding, the Village will only be required to accept wastewater originating from Sugarloaf Township that meets all applicable requirements of the Village, State, and Federal regulations for treatment by Village.

(b) Responsibility to Prevent Improper Discharge into the Village's System

Sugarloaf Township shall effectively prohibit and exclude from the portion of its sanitary sewer system tributary to the Village to the following: (1) any wastes which may directly or indirectly impair the structural durability of the Village's conveyance system, or its hydraulic functions; (2) wastes which may have deleterious effect on the Village's wastewater treatment plant structures or processes; (3) wastes whose polluttional effects are not effectively altered by ordinary treatment processes and whose presence in the receiving stream would violate State or Federal water quality standards; (4) wastes whose presence in the sewers would create a hazard to public health and safety; (5) wastes which are prohibited by any State or Federal statute, rule, or regulation.

Sugarloaf Township shall be subject to the same ordinances and regulations regarding unacceptable waste discharges as the Village now imposes, or may in the future impose, upon the users of the Village sewer system, and it shall not be a Sugarloaf Township defense to any legal action by the Village against Sugarloaf Township that any of the aforementioned materials were introduced into its system by a third party or parties without Sugarloaf Township's knowledge or consent. The Rules and Regulations of service established by Sugarloaf Township shall contain the same provisions regarding unacceptable discharge as the Village now imposes or may, in the future, impose upon the users of the Village's system, and shall provide that Sugarloaf Township shall impose a surcharge upon the users of

Sugarloaf Township's system regarding unacceptable waste discharged into Sugarloaf Township's system.

(c) Regulatory Requirements

Sugarloaf Township shall be required to adopt and administer within their own Code of Ordinances, Village of Dupo Code of Ordinances as contained in Chapter 32 entitled "Sewer System."

Sugarloaf Township shall be subject to requirements in the Village's National Pollutant Discharge Elimination System ("NPDES") permit as such pertaining to the collection and transport facilities.

III. MEASUREMENT OF THE TOWNSHIP'S WASTEWATER FLOW

(a) Metering Devices

To measure the volume of wastewater discharged from the collection facilities of Sugarloaf Township into the Village's system, an accurate sewage metering device shall be constructed and maintained at the connection points. The metering device shall be equipped with remote registering and recording mechanisms housed in a suitable structure which indicates and continuously records the rate of flow, and which measures and totalizes the quantity of sewage passing through the meter.

(b) Village Approval of Placement and Construction

The wastewater metering devices shall be provided by Sugarloaf Township at its own expense. The type and location of the sewage meter and all plans and specifications and details pertinent hereto shall be subject to the approval of the Village.

(c) Reading and Recording

The reading and recording of results of the metering device shall be done by both the Village and Sugarloaf Township. Sugarloaf Township shall maintain and operate the metering devices and cause same to be repaired upon request of the Village.

(d) Access, Testing, and Calibration

Either party shall have the right of access to the metering device and recording instruments for the purpose of making accuracy or calibration tests. An agent, employee, or designee, authorized by Sugarloaf Township shall only have such access during normal business hours, Monday through Friday. If an agent, employee, or designee, authorized by Sugarloaf Township, wishes to have access during Saturday or Sunday, said agent, employee, or designee must contact a representative from the Village of Dupo's Water Department. Under no circumstances shall any agent, employee, or designee of Sugarloaf Township have access to the facility without the presence of an employee, agent, or designee with proper authority of the Village.

No changes or adjustments to the metering device shall be made unless designated representatives of both the Village and Sugarloaf Township are present.

Anytime it has been determined that the wastewater metering device has not properly measured the volume of wastewater contributed by Sugarloaf Township, an adjustment of the measured wastewater flow shall be made. If the Village and Sugarloaf Township are unable to agree on the calibration of the metering device or on the adjustment of the measured wastewater flow, an impartial party, mutually satisfactory to the Village and Sugarloaf Township, shall be selected as an arbitrator to supervise the repairs and calibration of the metering device and to determine the proper adjustment of the measured flow. The finding of said arbitrator shall be final, but adjustments or measured wastewater flow shall not be retroactive for a period of more than three months.

IV CHARGES, METER READING, RATES, AND PAYMENT

(a) Charges

Sugarloaf Township shall pay to the Village a Monthly Wastewater Service Charge based on the total quantity of wastewater transmitted to the Village's system, as measured by the metering device at the connection point.

(b) Meter Reading

In order to calculate total charges owed by Sugarloaf Township, both parties shall each furnish each other meter readings made on the First Working Day of each month and a bill therefore on or about the 10th Day of such month following such reading. If the meter shall fail to register for any period, the amount of sewage flow discharged during such period shall be deemed to be the same as for the corresponding month of the year prior, unless otherwise agreed to by the parties.

(b) Rates

Sugarloaf Township shall compensate the Village for wastewater services provided on a monthly basis at a rate of **Four Dollars and Forty-One Cents (\$4.41) per One Thousand (1000) Gallons** of water treated, as reported by the metering device at the connection point. This rate shall apply for the first **Five Million (5,000,000) Gallons** of water treated by the Village. Any amount of wastewater treated in excess of **Five Million Gallons** within the same **Thirty (30) Day** period shall be charged at a rate of **Fifty Cents (\$0.50) per One Thousand (1000) Gallons** of water treated, as reported by the metering device at the connection point.

(c) Payment

Payment for wastewater services provided to Sugarloaf Township by the Village shall be made on a monthly basis with payment due upon issuance of the bill for wastewater services provided. If the monthly bill is not paid within Thirty (30) days from the date of issuance of the bill, penalty and interest shall apply at a rate of Ten Percent (10%) of the unpaid balance per month for the duration of time in which the balance remains unpaid.

V. TERM OF AGREEMENT AND REVIEW

(a) Term

The term of this agreement shall be for One Year, commencing on March 3, 2020 and terminating on March 3, 2021. Unless otherwise agreed to by the parties, the terms of this agreement will cease on March 3, 2021.

(b) 90 Day Review

Both parties shall hold a review regarding the wastewater services provided to Sugarloaf Township by the Village every Ninety (90) days. Both parties agree to review quality and quantity of wastewater processed by the Village on behalf of Sugarloaf Township, as well as the rates and total amounts charged to Sugarloaf Township per month. No changes or alterations of the rates or terms of this agreement may be changed unless approved by both parties.

VI. REMEDIES

In the event that Sugarloaf fails to pay for incurred obligations for wastewater treatment services for a period in excess of Ninety (90) days, or in the event that Sugarloaf Township's discharge to the Village is in noncompliance with any Village, State, or Federal regulations dealing with pollutant, contaminants, or excess flow levels, or in the event that there is a fundamental dispute of any material terms of this agreement, Sugarloaf Township agrees that the Village may exercise one or more of the following options:

(a) Upon Thirty (30) days written notice thereof, the Village may terminate its services to Sugarloaf Township without further notice; provided however, that such termination complies with all local, State, and Federal laws and regulations pertaining thereto; and provided further, that services to Sugarloaf Township shall not be terminated if, prior to expiration of Thirty (30) days from the written notice from the Village, Sugarloaf has met its financial obligations under this Agreement or has made reasonable arrangements to meet such obligations, or in the case of non-compliance with discharge limitations, has brought its discharges into compliance with the Village, State, or Federal regulations dealing with pollutant, or contaminants, or excess flow levels.

(b) In order to maintain a continuity of service, Sugarloaf Township shall have the right to make any payment of a disputed fee "under protest" which payment shall be subject to a refund in the event of a judicial decision in favor of Sugarloaf Township.

(c) In the event of any substantial dispute or if Sugarloaf Township fails or refuses to make payments of incurred obligations, or is lax in the enforcement of user charges and/or industrial cost recovery surcharges or fails to abide by other provisions of this agreement and if such dispute or violation continues over a period of more than fourteen (14) days, it will be the duty of the aggrieved party to submit such dispute to arbitration. Thereupon, each of the

governing boards shall appoint within 30 days a disinterested arbitrator. The arbitrators thus selected will jointly appoint a third arbitrator within 14 days. The arbitrators shall adopt rules concerning procedures to be followed to commence an arbitration proceeding hereunder. The arbitrators selected will constitute an arbitration board to make an investigation and reach an agreement which will be binding upon both parties to this agreement. The arbitration board will be empowered to hire counsel or other professional or technical advisors to aid the board in its deliberations. The cost of the proceedings of the arbitration board shall be apportioned between the parties by the arbitrators. The board will have the power to assess the entire cost to one of the parties if it should determine that that party had arbitrarily or without justification caused such arbitration.

VII. ENFORCEABILITY

This Agreement shall be enforceable in and only in the Circuit Court of St. Clair County, Illinois and by an appropriate action at law or equity to secure the performance of the covenants herein contained, including the remedies of injunction, mandatory injunction and specific performance.

VIII. HOLD HARMLESS

Sugarloaf Township shall save, defend and, and hold the Village and its agents, officials, and employees harmless against any and all claims for damages by third parties, enforcement action by any State or Federal agency, or litigation including therein all costs, settlements, and fines and reasonable attorney fees, as a result of any violations or breaches of this Agreement by Sugarloaf Township or in relation to the services provided as a result of this Agreement.

The Village shall save, defend and, and hold Sugarloaf Township and its agents, officials, and employees harmless against any and all claims for damages by third parties, enforcement action by any State or Federal agency, or litigation including therein all costs, settlements, and fines and reasonable attorney fees, as a result of any violations or breaches of this Agreement by the Village.

The Village and Sugarloaf Township specifically reserve any claim, privilege, immunity, and defense accorded them under law.

IX. AMENDMENTS

No amendments to this Agreement shall be effective unless accomplished by written agreement pursuant to proper authority granted by the governing corporate boards of the Village and Sugarloaf Township.

X. ASSIGNMENT

Except as hereinbefore provided, it is mutually understood and agreed upon by the parties that neither party shall assign, transfer, or convey any right, title, or interest in and to this Agreement without the written consent of the other, which consent shall not be unreasonably withheld.

XI. COOPERATION OF THE PARTIES

Both parties agree to timely perform the provisions hereof and to keep the other informed of a foreseeable problem or dispute deemed likely to arise in the performance hereof.

XII. RECITALS

The matters contained in the recitals to this Agreement are agreed by the Village and Sugarloaf Township to be true and be interpreted as part of the Agreement by the Village and Sugarloaf Township.

XIII. AGREEMENT COMPLETE

This Agreement is intended to constitute a full and complete understanding between the parties with regard to the provision of wastewater treatment services. All prior understandings and agreements with regard to the Village providing wastewater treatment services to Sugarloaf Township are hereby null and void with the exception of the following: The parties expressly acknowledge and agree that this section excepts therefrom any outstanding obligations currently owed by Sugarloaf Township to the Village for wastewater services previously provided, including but not limited to, the outstanding balance of wastewater treatment services provided in May and June of 2019 ("Outstanding Balance"). Per prior agreement, Sugarloaf Township is to apply for relief through FEMA for the Outstanding Balance. Any amounts still owed after such relief may, at the Village's discretion, be forgiven.

XIV. EFFECTIVE DATE

The effective date for this Agreement shall be March 3, 2020, and shall be applied retroactively, regardless of date of execution.

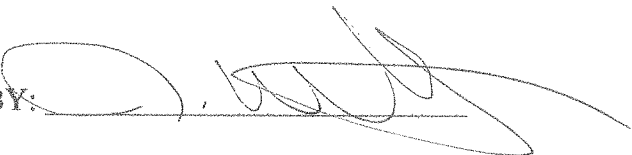
XV. SEVERABILITY

If any portion of this Agreement is held invalid by a court of competent jurisdiction or in the event such a court determines that either party does not have the power to perform any such provision, such provision shall be deemed to be excised from this Agreement and the invalidity thereof shall not affect any of the other provisions contained in this Agreement.

[Signature Page to Follow]

4/6/2020 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on

VILLAGE OF DUPO, ILLINOIS
A MUNICIPAL CORPORATION


BY: 

Jerry Wilson, Mayor
Village of Dupo, Illinois


SUGARLOAF TOWNSHIP, ILLINOIS
A MUNICIPAL CORPORATION

BY: 

Michael Terry,
Sugarloaf Township
Township Supervisor

ATTEST 

Mark Nadler, Village Clerk
Village of Dupo, Illinois

ATTEST 

Maxine Larson,
Sugarloaf Township Clerk