

Final Draft for Sub Committee for group approval

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY
STATE OF OREGON
ORDINANCE NO

AN ORDINANCE PROVIDING FOR REGULATION OF FIRE PROTECTION SERVICE PROVIDERS

THE BOARD OF COUNTY COMMISSIONERS of Josephine County ordains as follows:

SECTION 1. TITLE

This Ordinance shall be known as the "Fire Protection Service Providers Ordinance."

SECTION 2. AUTHORITY

- A. The Josephine County Board of Commissioners hereby determines that the health, safety, and general welfare of the citizens of Josephine County requires that fire protection service providers outside of fire protection districts, cities or other legal governmental units be regulated so as to provide public accountability, and prompt, effective, efficient and safe service.
- B. This ordinance authorizes Josephine County to provide regulations that may be more stringent than any adopted by other governmental agencies or entities.
- C. This ordinance is authorized by Josephine County Home Rule Charter, Chapter II, and other applicable law.

SECTION 3. POLICY AND PURPOSE

The Board of Commissioners finds:

- A. That this Ordinance establishes requirements and the methods for regulating fire protection service providers. This Ordinance comprises the complete plan for fire protection outside of established rural fire districts, cities or other governmental agencies for Josephine County.

SECTION 4. DEFINITIONS

Unless specifically defined herein to have a different meaning the words and phrases in this Ordinance shall have the meaning provided in ORS and OAR.

A. Other specific definitions include:

0. "All-Hazard" represents responses typical to fire service industry standards as defined by a community risk analysis, which may include the delivery of services related to fire suppression, first responder emergency medical care, vehicle extrication, hazardous materials mitigation and technical rescue.
1. "Auto Aid" means contractual agreement between two or more agencies, communities or fire districts ~~to assist the nearest available resource to the incident by disregarding the~~ by pre-programming automatic response of the 'closest resource' that can provide efficient assistance across jurisdictional boundaries.
2. "BCC" means the Josephine County Board of Commissioners.
3. "Emergency" means any incident, occurrence, or situation requiring immediate fire, rescue or medical services.
4. "Emergency Call for Service" means any notification of an emergency incident via 9-1-1 or other means.
5. "Emergency Vehicle" means all vehicles designated as emergency vehicles pursuant to ORS 801.260
6. "Employee" means an employee, agent, worker, or driver employed or volunteering on behalf of a Provider.
7. "Firefighter" means a person involved in performing structural fire department/agency duties and responsibilities and is generally trained and capable of all-hazard emergency service delivery. A firefighter may be a full-time, part-time or volunteer member of a fire department/agency and may occupy any position or rank within the fire department/agency.
8. "Fire Protection Service Provider" or "Provider" means any legal entity or person who contracts to perform structural and all-hazard emergency responses fire protection services not within the boundary of a Fire Protection District or a city.
9. "Fire Training" means training received or required by fire fighters to maintain proficiency in the performance of their assigned duties.
10. "Mutual Aid" means is an agreement among emergency responders to lend assistance across jurisdictional boundaries.
11. "Person" means an individual, partnership, corporation, association or any other legal entity, including any receiver, trustee, assignee, or similar representative.

12. "Private Fire Department Standards" means standards identified by Rogue Valley Fire Chiefs working group to allow private fire departments to join mutual aid with RVFCA

13. "Records" means any information, whether written or oral, whether recorded or stored electronically or by any other means, regarding the fire protection service agency, its operations and employees and includes financial statements, reports and documents.

~~14. "The Rogue Valley Fire Chiefs Association" exists to provide leadership, education, and support to the Chief Officers of Josephine and Jackson County fire departments by fostering a strong collaboration among federal, state, regional and local fire and emergency services resources.~~

14. "The Rogue Valley Fire Chiefs Association" is identified as a coalition of fire protection agencies within Josephine and Jackson Counties. They exist to provide leadership, education and support to area emergency management officials and partners by fostering a strong collaboration among local, regional, state and federal emergency service resources. They are host of the Rogue Valley master mutual/auto-aid agreement and the regional mobilization plan.

15. "Structural Private Fire Service Advisory Board SPFSAB", means a 7-11 member committee appointed by the BCC that reviews and performs inspections for compliance for private fire services in Josephine County.

16. "Vehicle" means vehicles used for fire protection purposes.

17. "Volunteer" means any person who provides services for a Provider without receiving material consideration; i.e., payment.

SECTION 5. EXEMPTIONS

The provisions of the Ordinance do not apply to:

- A. U.S. Government. Vehicles owned or operated by the United States Government or under contract to an agency of the United States Government.
- B. Public Catastrophe. Vehicles used to render temporary assistance in case of a major catastrophe or emergency with which the fire protection agencies of the County are unable to cope, or when directed to be used to render temporary assistance by the individual in charge of the scene of an accident or emergency.
- C. Institutional Vehicles. Vehicles operated solely on private property or within the confines of institutional grounds, whether or not the incidental crossing of any public street, road or highway serving the property or grounds is involved.

SECTION 6. POWERS OF THE BOARD OF COUNTY COMMISSIONERS

The **BCC or its designee** has the authority to regulate Fire Protection Service Providers within Josephine County. The BCC may perform any act necessary to ensure that Fire Protection Service Providers comply with all applicable provisions of federal and state law and administrative rules, as well as local ordinances and rules.

SECTION 7. REQUIRMENTS FOR THE PROVISION OF FIRE PROTECTION SERVICES.

The following documents and supporting materials shall be made available for audit by the BCC or SPFSAB upon request:

- A. On **initial application, and on or before** July 1 of each year, Providers shall provide to the BCC documentation from the Secretary of State which verifies that the Provider is a legal entity that is licensed to conduct business in the State of Oregon. Included shall be any assumed business names under which the Provider operates, together with a statement identifying the members of Provider's Board of Directors, partners and limited partners, managing members or other persons having a financial interest in its operations.
- B. On **initial application, and on or before** July 1 of each year, Providers shall provide to the **BCC SPFSAB** documentation of the Provider's level of **all-hazard** service provided to the community (~~all hazards~~); to include a map of the area served by the Provider. The map will identify station locations and a list of vehicles by type, utilizing the vehicle typing standards of the Oregon State Fire Marshal's Mobilization Plan.
- C. On **initial application, and on or before** July 1 of each year, Providers shall provide to the **BCC SPFSAB** documentation verifying an Insurance Services Office (ISO) rating of at least a class **9 8** in the best rating area and a map indicating the area graded by the ISO.
- D. On **initial application, and on or before** July 1 of each year, Providers shall provide to the **BCC SPFSAB** documentation which demonstrates compliance with all Occupational Safety and Health laws.
- E. On **initial application, and on or before** July 1 of each year, Providers shall provide to the **BCC SPFSAB** documentation that its Firefighters are ~~accredited~~ **certified** by the Oregon Department of Public Safety Standards and Training (DPSST), International Fire Service Accreditation Congress (IFSAC), or Pro-Board to the level of National Fire Protection Association (NFPA) Firefighter One (1) and have completed the wildland S-130 and S-190 and L-180 (**or annual refresher**) training.
- F. On **initial application, and on or before** July 1 of each year, Providers shall provide to the **BCC SPFSAB** documentation that Provider has performed background checks on all of Provider's Firefighters **to the minimum level defined by the BCC.**
- G. On **initial application, and on or before** July 1 of each year, Providers shall provide to the **BCC SPFSAB** documentation verifying that all of Provider's emergency vehicles

are titled and registered by the Oregon Department of Transportation and that said vehicles are designated as emergency vehicles pursuant to Oregon law.

- H. On initial application, and on or before July 1 of each year, Providers shall provide to the BCC SPFSAB documentation verifying that Provider has the ability to receive notification of calls for service from the local Public Safety Answering Point (PSAP) and has the ability to dispatch resources.
- I. On initial application, and on or before July 1 of each year, Providers shall provide to the BCC SPFSAB documentation that Provider has a minimum of one (1) frequency licensed by the Federal Communications Commission for public safety use.
- J. On initial application, and on or before July 1 of each year, Providers shall provide to the BCC SPFSAB documentation that Provider has adopted and utilizes the National Incident Management System (NIMS) and that Provider operates within the National Response Framework during emergency operations.
- K. On initial application, and on or before July 1 of each year, Providers shall provide to the BCC SPFSAB documentation that Provider maintains a minimum level of insurance coverage, as defined by the BCC through a Board Order.
- L. On initial application, and on or before July 1 of each year, the private fire service provider will provide any emergency medical services as identified in their standards of cover. Section 7-B of this ordinance, they shall provide documentation to the SPFSAB verifying that the private fire services provider has secured the services of an approved supervising physician, Standing Orders, and registration with the Oregon State Health Division as an entity responding to emergency medical incidents.
- M. On initial application, and on or before July 1 of each year, Provider shall provide to the BCC SPFSAB documentation that provider have of any auto and/or mutual aid agreements the Provider may have with bordering other all-hazard fire services or districts.
- N. On Initial application, and on or before July 1 of each year, Provider shall provide an annual report of the operational disposition of the services provided as outlined in Section 7-B of this ordinance in accordance with the National Fire Incident Reporting System (NFIRS) and National Emergency Medical Services Information System (NEMSIS).

SECTION 8. STRUCTURAL PRIVATE FIRE SERVICES ADVISORY BOARD

The Structural Private Fire Service Advisory Board (SPFSAB) is a board created under the authority of this ordinance with the following composition, duties and responsibilities:

1. The SPFSAB is an advisory board consisting of not fewer than 7 nor more than 11 members. Members shall be appointed by the BCC for three-year terms with the following conditions:
 - a. Initial terms shall be one, two or three years being determined by order of original appointment. The terms of office shall be staggered with one-third of the members appointed each year.
 - b. The SPFSAB shall choose its own Chair. The terms of the Chair and Vice-Chair shall be for one year with the ability to be reelected.
 - c. The SPFSAB shall meet quarterly or when called upon by its Chair or Vice-Chair or as called by the BCC. The Chair or any two members of the SPFSAB may call an emergency meeting with 24 hours' notice to other members of the SPFSAB.
2. A majority vote of members present at an official meeting is required to pass motions.
3. A quorum consisting of a majority of appointed members will be required to conduct an official meeting.
4. SPFSAB meetings are subject to the Oregon public meetings and public records laws as set out in ORS Chapter 192.
5. The PFSAB shall include members representing the following:
 - a. One member representing the Josephine County Sheriff's Office;
 - b. One member representing the Josephine County Fire Defense Board;
 - c. One 9-1-1 Public Safety Answering Point (PSAP) representative;
 - d. One member representing the Oregon Department of Forestry (ODF SWO);
 - e. The Josephine County Emergency Manager;
 - f. One representative of each private fire service provider that provides all-hazard emergency services; and
 - g. Three to Five members representing the general public, representing a different geographic area of the unprotected area served by any of the private fire services. (ex: North Valley, Murphy, Shan Creek, Foothill, Wilderville, Fort Vannoy)
6. Ex Officio Members. The Board of County Commissioners' will choose one commissioner to serve as an ex officio member, or the BCC may appoint other County employees or officials to serve as ex officio members.
7. Members shall be appointed by and serve at the pleasure of the BCC. The SPFSAB may appoint or approve designation of alternates to serve in the absence of persons appointed to the PFSAB. A designated alternate attending a meeting in the place of a regularly appointed member shall have the right to vote in the place of the absent member.
8. SPFSAB members are public officers and are therefore required to comply with the provisions of ORS Chapter 244 and OAR Chapter 199.
9. The PFSAB shall have the following powers and duties:

- a) Review and make recommendations to the BCC regarding all applications for private fire service providers provision of service in Josephine County, including initial license, amendment to a license, or renewal of a license.
- b) Provide for ongoing input to the BCC from private fire service consumers, providers and the fire and medical community.
- c) Under the direction of the BCC, periodically review the performance of private fire service providers within Josephine County.

10. Periodically review the Josephine County Private Fire Service Provider standards and make recommendations to the BCC including, but not limited to:

- a. Reviewing standards established ordinance or rules and make recommendations regarding improvement and/or new standards;
- b. Monitor coordination between private fire providers and other public fire protection resources;
- c. Review dispatch procedures and compliance;
- d. Review the effectiveness and efficiency of the provider service areas; and
- e. Review and make recommendations to the BCC concerning the establishment of administrative rules.

SECTION 9. PROHIBITED ACTIVITIES

A. Operational Prohibitions:

- 1. Services. It shall be unlawful for any person or entity to do business or provide fire protection services in Josephine County without demonstrating compliance with this ordinance.
- 2. Vehicle. No person shall operate a vehicle as an emergency vehicle that is not designated an emergency vehicle by the State of Oregon, as well as any rules adopted by Josephine County.

B. Violations of this ordinance shall be punishable by a fine of \$500 per incident. Additionally, the county may file a complaint in the Circuit Court against the person responsible for violating this ordinance. If the court finds that violation has occurred, the county may move the court to enjoin the person from committing further violations, which acts would then be punishable by contempt.

C. Related Prohibitions. No fire protection service provider, or said providers' employee, agent or representative shall:

1. False Statements. Make a false statement of a material fact, or omit disclosure of a material fact, in an application for a license or in any matter relating directly to the provision of fire protection services.
2. Overcharging. Charge for services not performed, make duplicate charges for the same service, or charge rates exceeding those on file with BCC.
3. Unauthorized services. Perform services unless authorized by this Ordinance. This prohibition does not apply when:
 - i. The response is for supplemental or mutual aid;
 - ii. An Incident Commander requests additional assistance in response to an incident.
4. Failure to Notify. Fail or refuse to promptly inform the 9-1-1 Center of receipt of a request for emergency assistance or when a Provider becomes unavailable to respond to dispatch orders.
5. Non-Response. Fail or refuse to respond to a dispatch from the 9-1-1 Center or other authorized dispatch center when Provider is available for service.
6. Falsifying Licenses, Etc. Intentionally falsify, deface, or obliterate any license or certificate required under this Ordinance.
7. Violation of Law. Violate any Federal, State, County, or Municipal law, or any rule adopted pursuant to those laws.

SECTION 10. NUISANCE

In addition to penalties provided by Section 8, violation of any of the provisions of this Ordinance is declared to be a nuisance and may be regarded as such in all actions, suits and proceedings. Pursuant to the provisions of ORS Chapter 682 and OAR Chapter 333, this Ordinance shall be enforceable by the Health Authority of the State of Oregon, Department of Human Resources. In addition, Josephine County may undertake any appropriate action to enforce the provisions of this Ordinance.

SECTION 11. STATE STANDARDS

Nothing in this ordinance shall be construed to establish requirements for fire protection service lower than those established, now or hereafter, by the State of Oregon.

SECTION 12. DISPATCH EXEMPTION

Nothing in this Ordinance is intended to prohibit a 911 Agency from notifying or dispatching any other initial responder to the scene of an emergency, in addition to notifying or dispatching a fire protection Provider.

SECTION 13. SEVERANCE CLAUSE

If any portion of this ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect. Subtitles used for sections, subsections, and other parts of this Ordinance are for convenience of reference only and do not constitute a part of this Ordinance nor an expression of legislative intent.

SECTION 14. EFFECTIVE DATE

First reading by the Board of County Commissioners this ____ day of .

Second reading and adoption by the Board of County Commissioners at least thirteen (13)

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days from the first reading this _____ day of December, 2016. This Ordinance shall take effect ninety (90) days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY
BOARD OF COMMISSIONERS

~~Cherryl Walker~~, Chair

~~K. O. Heck~~, Vice Chair

~~Simon Hare~~, Commissioner

ATTEST:

Recording Secretary

APPROVED AS TO FORM:

Wally Hicks, Legal Counsel

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