ORDINANCE NO. 2012-14

AN ORDINANCE AMENDING THE ENID MUNICIPAL CODE, 2003, AMENDING TITLE 5, ENTITLED "PUBLIC SAFETY," CHAPTER 2, ENTITLED "COMPOSITION OF DEPARTMENT," TO CAPITALIZE PROPER NOUNS, TO ADD ONE SPECIALTIES OFFICER WITH A RANK OF ASSISTANT MECHANIC, AND TO REVISE THE OFFENSE CLASSIFICATION AND OTHER LANGUAGE REGARDING BURN BAN VIOLATIONS; PROVIDING FOR REPEALER, SAVINGS CLAUSE, SEVERABILITY AND CODIFICATION.

BE IT ORDAINED BY THE MAYOR AND BOARD OF COMMISSIONERS FO THE CITY OF ENID, OKLAHOMA:

Section I: That Title 5, Chapter 2, of the Enid Municipal Code, 2003, is hereby amended to read as follows:

5-2-1: COMPOSITION OF DEPARTMENT:

A. Rank ~~A~~and Number: The ~~f~~Fire ~~d~~Department of the ~~c~~City shall consist of the following officers and firemen in order of rank and grade, and as divided into line, specialties, and staff classifications:

1. Line officers, rank:

Chief (1)
Assistant chief (1)
Deputy chief (3)
Captain (6)
Lieutenant (15)

2. Firemen, rank:

Grade - driver (24)
Grade - firefighter (21)

3. Specialties officers, rank:

Master mechanic (1)
Assistant mechanic (3~~2~~)

4. Staff officers, rank:

Fire marshal (1)
Assistant fire marshal (3)
Training officer (1)
Assistant training officer (1)

B. Testing ~~F~~for Specialty ~~O~~or Staff Officer Positions: Firefighters or positions of higher rank and/or grade may test for specialty officer or staff officer positions upon the completion of two (2) years of continuous service with the ~~f~~Fire ~~d~~Department.

C. Returning ~~T~~to Line Officer ~~O~~or Fireman Position: Any line officer or fireman who becomes a specialty or staff officer and desires to return to the line shall return to the grade or rank formerly held as a line officer or fireman.

D. Testing ~~F~~for Higher Position: Staff and specialty officers, having met all applicable provisions of the ~~f~~Fire ~~d~~Department ~~c~~Civil ~~s~~Service ~~c~~Charter, may test for the next higher line position than was previously held prior to their promotion as staff or specialty officers.

E. Peace Officer Certification: The ~~f~~Fire ~~m~~Marshal and ~~a~~Assistant ~~f~~Fire ~~m~~Marshal shall be considered peace officers and should be certified as such by the ~~s~~State of Oklahoma ~~c~~Council on ~~l~~Law ~~e~~Enforcement ~~e~~Education and ~~t~~Training. (Ord. 2007-23, 8-7-2007)

5-2-2: CONTRACTS FOR FIRE PROTECTION OUTSIDE CITY[3]:

A. Authority ~~O~~of City: The ~~c~~City may enter into contracts with individuals or political subdivisions of the state for fire protection outside the corporate limits of the ~~c~~City, and to contract to provide fire protection jointly with other organizations and municipal subdivisions of the state.

B. Charges ~~F~~for City Services: Any contract entered into by the ~~c~~City with an individual or political subdivision of the state for outside aid or mutual aid for fire protection shall provide for the payment by said owner or political subdivision to the ~~c~~City for such apparatus and personnel at the rate provided for in subsection 2-6D-1A of this code for the use of any engine, hose wagon, ladder wagon, or any piece of fire apparatus together with the personnel furnished therewith by the ~~c~~City. (1994 Code § 12-17)

5-2-3: RESPONSE TO CALLS OUTSIDE CITY:

A. Limitations ~~O~~on Response; Fee: The ~~f~~Fire ~~d~~Department shall answer all outside fire calls within a distance of three (3) miles from the city limits, and within one thousand feet (1,000') of a standard fire hydrant, unless, in the opinion of the ~~f~~Fire ~~c~~Chief, it is inexpedient to do so on account of another fire in the ~~c~~City, broken apparatus, impassable or dangerous highways, or any other physical condition. Other calls outside the city limits shall be answered whenever deemed advisable by the ~~f~~Fire ~~c~~Chief. The ~~f~~Fire ~~d~~Department shall assess the fee provided for in subsection 2-6D-1B of this code for the use of fire equipment together with personnel furnished therewith by the ~~c~~City.

B. Status ~~O~~of Firemen When Serving Outside City: All firemen of the fire department attending and serving at fires or doing fire prevention work or rescue, resuscitation, first aid, inspection or any other official work outside the corporate limits of the ~~c~~City shall be considered as serving in their regular line of duty. Said firemen shall receive no additional compensation, but shall be

entitled to all pension and retirement benefits in the same manner as if the firefighting or fire prevention work was being done within the ~~c~~City[4].

C. Fire Department Agent ~~O~~of State While Outside City: The ~~f~~Fire ~~d~~Department answering any fire alarm or performing any fire prevention services, or rescue, resuscitation, first aid, inspection or any other official work outside of the corporate limits of the ~~c~~City shall be considered an agent of the state, and acting solely in a governmental capacity. The ~~c~~City shall not be liable ~~in damages~~ for any act of commission, omission or negligence while answering or returning from any fire, or reported fire, or doing or performing any fire prevention work under and by virtue hereof[5]. (1994 Code §§ 12-18, 12-19, 12-20)

5-2-4: HAZARDOUS MATERIALS INCIDENT RESPONSE:

A. Definitions:

BUSINESS ENTITY OR PERSON: Any corporation, sole proprietorship, partnership, limited partnership, person, firm, or other similar entity engaged in any commercial, business, or industrial transaction of any nature.

HAZARDOUS MATERIALS INCIDENT: Any incident that involves the release of any hazardous material from its intended container that has the potential to harm persons, property, or the environment.

HAZARDOUS MATERIALS RESPONSE TEAM: The hazardous materials response team of the city's fire department.

HAZARDOUS SUBSTANCE: Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard, according to federal, state, and/or local standards and regulations, to human health and safety or to the environment if released from its intended container.

RESPONSIBLE PARTY: Jointly and severally, all persons involved in the possession, ownership, or transportation of any hazardous material that is released or abandoned, or who have legal liability for the causation of an incident resulting in the release or abandonment of any hazardous material.

B. Nuisance: Due to the harmful effects of hazardous substances, a hazardous materials incident is hereby declared to be a nuisance.

C. Response: The Enid ~~f~~Fire ~~d~~Department is authorized to respond to any hazardous materials incident within or outside the ~~c~~City of Enid in order to mitigate the effects of any hazardous substance or waste unlawfully, accidentally, or negligently released, discharged, or deposited upon or into any property or facilities within the city.

D. Responsibility: The following described persons shall be liable to the city for the payment of all costs incurred by the ~~c~~City as a result of a hazardous materials incident:

1. The person or persons whose accidental, negligent, or wilful act or omission proximately caused such release, discharge, or deposit;

2. The person or persons who owned or had custody or control of the container that held such hazardous substance or waste at the time of such release, discharge, or deposit without regard to fault or proximate cause; and

3. The person or persons who owned or had custody or control of the container that held such hazardous waste or substance at the time or immediately prior to such release, discharge, or deposit without regard to fault or proximate cause.

E. Costs: The costs for responding to a hazardous materials incident by the ~~c~~City shall be computed as provided for in section 2-6D-3 of this ~~c~~Code.

F. Service Limits: The service provided by the hazardous materials response team is limited to the initial emergency response to a hazardous materials incident and includes only those stabilization and protective measures deemed necessary and feasible by the incident commander to initially address the immediate threat to the public health and safety. Deployment of the team beyond the scope of the team's resources and capabilities for such an initial response is not contemplated under this section and the city reserves the right to terminate the services of the team at any time after arrival at the site. Protective and stabilization requirements continuing beyond the cessation of service, along with the cleaning up, removal, or disposal of hazardous materials, and any testing, monitoring, or long term care of the site of the hazardous materials incident shall remain the duty of the responsible party. The provisions of this section shall not be construed to excuse or exempt any responsible party from any legal duties, liabilities, or costs associated with the hazardous materials release or abandonment other than the costs for the services of the hazardous materials response team for the duration of the service call.

G. Appeal: Anyone assessed the costs of mitigating a hazardous materials incident may appeal the assessment to the mayor and board of commissioners by notifying the city clerk in writing within ten (10) days of receipt of the notification of the assessment. (Ord. 2003-16, 9-16-2003)

5-2-5: STATEWIDE OR COUNTY FIRE BANS OR RESTRICTIONS:

A. It is unlawful and an offense for any person to violate statewide or Garfield County fire bans or fire restrictions promulgated by the ~~g~~Governor of Oklahoma, the ~~s~~State ~~f~~Fire ~~m~~Marshal, or other appropriate legal authority.

B. The violation of this section may result in criminal prosecution and the imposition of a fine up to five hundred dollars ($500.00)~~shall be a class B offense~~. (Ord. 2006-02, 1-17-2006)

Section II: REPEALER. All ordinances or parts thereof, which are inconsistent with this ordinance, are hereby repealed.

Section III: SAVINGS CLAUSE. Nothing in this ordinance hereby adopted shall be construed to affect any suit or proceedings now pending in any court, or any rights acquired or liability incurred nor any cause or causes of action accrued or existing, under any act or ordinance appealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this ordinance.

Section IV: SEVERABILITY. If any one or more of the sections, sentences, clauses or parts of this ordinance, chapter or section shall, for any reason, be held to be invalid, the invalidity of such section, clause or part shall not affect or prejudice in any way the applicability and validity of any other provision of this ordinance. It is hereby declared to be the intention of the City Commission of the City of Enid that this section of the Enid Municipal Code would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part not been included.

Section V: CODIFICATION: This ordinance shall be codified as Title 5, Chapter 2, of the Enid Municipal Code, 2003.

PASSED AND APPROVED by the Mayor and Board of Commissioners on this 19th day of June 2012.

CITY OF ENID, OKLAHOMA

_____
William E. Shewey, Mayor

(SEAL)

ATTEST:

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Linda Parks, City Clerk

Approved as to form and legality:

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Andrea Springer, City Attorney