



**City Council
Agenda Memo**

City Council Meeting Date: 9/22/2015

TO: Robert Hanna, City Manager

FROM: Ken Dozier, Fire Chief

SUBJECT: First Reading: Ordinance Amendment- Chapter 5 Ambulance Services; and setting a public hearing October 8th 2015.

GENERAL INFORMATION

Currently the ambulance services in Abilene are regulated by the issuance of a license of public convenience and necessity as established by ordinance. This ordinance was first created in 1966. Even though minor amendments have occurred throughout the years, our current arrangement has remained in place for almost 50 years. The proposal before the City Council at this time is to amend the ordinance whereby the ambulance services will be regulated by contract. This contract will grant an ambulance provider the exclusive franchise for Emergency Medical Services (EMS) and Non-emergency ambulance transfer services within the city limits. This proposed arrangement is consistent with current industry standards and will allow the city to make adjustments via the contract, when necessary, in the ever-changing field of EMS.

SPECIAL CONSIDERATIONS

In order to accomplish the transition to a contract-based ambulance service a number of steps are required. The first issue to address is this proposed change to Chapter 5- Ambulance Services. If the City Council votes to amend the ordinance the following steps will soon occur:

- A Request for Proposal (RFP) will be issued with specific details of the type of ambulance service desired.
- A review will be conducted and the proposals will be ranked and presented to the City Manager for review.
- The City Manager will present to the City Council his recommendation regarding the proposals.
- The City Council will have the final decision regarding an ambulance provider and will direct staff to initiate contract discussions with the selected provider.
- A contract will be negotiated and finalized.
- The selected ambulance company will provide services as stipulated within the contract.

FUNDING/FISCAL IMPACT

The fiscal impact to the citizens of Abilene is unknown at this time. The rates/fees proposed by those responding to the Request for Proposal (RFP) will be one of the factors used to establish the recommended rank order of the companies that desire to provide ambulance services.

STAFF RECOMMENDATION

Staff recommends approval of the proposed ordinance amendments with the corresponding transition to a contract-based ambulance service arrangement.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

Description	Type
☐ Ordinance	Ordinance
☐ Ordinance Exhibit	Exhibit

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE DELETING AND REPLACING CHAPTER 5, "AMBULANCES" OF THE ABILENE CODE OF ORDINANCES AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, the City has a duty to protect the health, safety, and welfare of the citizens of the City of Abilene; and

WHEREAS, to meet that duty, it is the policy of the City to promote efficient, safe, reliable, and quality ambulance service in the City of Abilene; and

WHEREAS, the City of Abilene currently has an ordinance that governs the licensing and operation of ambulances in the City of Abilene; and

WHEREAS, the last comprehensive update of that ordinance occurred in 1997; and,

WHEREAS, this ambulance ordinance update provides for the regulations of ambulance services to be carried out in a manner that protects the public health and safety, promotes public convenience, and respects free enterprise.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 5, "Ambulances" is hereby deleted in its entirety and replaced as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

PART 2: That the City Manager may issue a Request for Proposals to award an Exclusive Rights Contract to a provider for Emergency Medical Service and Non-Emergency Ambulance Transfer Service in anticipation of the adoption of the provisions set forth in Exhibit A.

PART 3: That the effective date of this ordinance shall correspond with the City Council award of an Exclusive Rights Contract following the Request for Proposals set forth in Part 2 above, though said ordinance, being a penal ordinance, shall be published in the newspaper as provided by Section 19 of the Charter of the City of Abilene, following adoption.

PART 4: The current provisions of Chapter 5 shall remain in effect and be enforced until such time as the City Council awards an Exclusive Rights Contract following the Request for Proposals set forth in Part 2 above.

- PART 5:** The incumbent provider of Emergency Medical Services pursuant to a Certificate of Public Convenience and Necessity may remain in place until such time the City Council awards an Exclusive Rights Contract following the Request for Proposals set forth in Part 2 above.
- PART 6:** No additional applications for a Certificate of Public Convenience and Necessity under the existing provisions of Chapter 5 will be accepted, processed, or considered by the City Council until such time as the City Council awards an Exclusive Rights Contract following the Request for Proposals set forth in Part 2 above.
- PART 7:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
- PART 8:** That any person, firm, or corporation violating the provisions of this Ordinance, shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.
- PART 9:** That each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 22nd day of September, 2015.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on 04 day of October, 2015, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 8th day of October, 2015, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene, or as specifically provided for in this ordinance.

PASSED ON SECOND AND FINAL READING this 8th day of October, 2015.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Replace CHAPTER 5 “Ambulances” of the Abilene Code of Ordinances in its entirety with the following:

ARTICLE I. IN GENERAL

Section 5-1. Definitions.

Section 5-2. Use of emergency and transfer service.

ARTICLE II. EMERGENCY MEDICAL SERVICE (EMS)

Section 5-3. EMS and Non-emergency Ambulance Transfer Service.

Section 5-4. Provision of EMS Services; first responder service by fire and rescue department.

**ARTICLE III. EXCLUSIVE FRANCHISE FOR EMS AND NON-EMERGENCY
AMBULANCE TRANSFER SERVICE**

Section 5-10. Franchise required.

Section 5-11. Franchise application; requirements.

Section 5-12. Franchise fee.

Section 5-13. Transfer of franchise.

Section 5-14. Inspection of books and reports.

Section 5-15. Rates.

**Chapter 5
AMBULANCE SERVICES
ARTICLE I. IN GENERAL**

Section 5-1. Definitions.

For the purpose of this chapter, the words and phrases listed below shall have the following meanings:

Emergency pre-hospital care. Care provided to the sick or injured either on the scene or during emergency transport to an emergency room at a hospital or a facility providing emergency medical care.

Emergency medical service (EMS). The provision of basic or advanced life support and transportation of patients to an emergency room of a hospital for emergency pre-hospital care. In Abilene, EMS and emergency ambulance transfer service is exclusively provided by a private contractor (the City's EMS provider) under contract. In addition, the City provides First Responder services (which may include some basic or advanced life support) to its contracted EMS Provider through members of the Abilene Fire and Rescue Department.

EMS Provider. The entity under contract with the City that provides EMS services to residents of the City.

First Responder. Members of the Abilene Fire and Rescue Department who are assigned responsibility for responding to calls received from the Taylor County 911 Dispatch Center for emergency medical service in cooperation with the City's EMS Provider.

Non-emergency ambulance transfer service. The operation of a service to transport patients for non-emergency, previously scheduled, medical treatment from a point originating and terminating within the City limits. The transport of a patient for unscheduled medical treatment or evaluation at an emergency room at a hospital or a facility providing emergency medical care is not a non-emergency ambulance transfer service, but rather is the provision of EMS.

Originates. For purposes of this chapter, a call for EMS services "originates" within the City limits if the person in need of EMS service (emergency pre-hospital care or emergency ambulance transfer service) is physically located at an address within the city limits.

ARTICLE II. EMERGENCY MEDICAL SERVICE (EMS)

Sec. 5-2. Use of emergency and urgent service.

All calls for EMS that originate within the city limits of the City shall be directed to the City of Abilene's 9-1-1 Communication Center and responded to solely by the City of Abilene First Responders and the City's contracted EMS provider, except as provided herein.

Sec. 5-3. EMS and Non-emergency Ambulance Transfer Service

It shall be unlawful for any person or service to furnish, operate, advertise or otherwise engage or profess to be engaged in the service or operation of EMS or Non-emergency Ambulance Transfer Service that originates at an address within the City unless said person or entity is:

- (a) rendering assistance to patients in case of a major catastrophe or emergency with which the licensed ambulances of the city are unable to cope; or
- (b) transporting a patient who is picked up from a location beyond the limits of the city and transported to a location within the city; or
- (c) transporting a patient who is picked up from a location beyond the limits of the city and transported to a location beyond the limits of the city and only incidentally passing through the city; or
- (d) transporting a patient who is picked up from a location within the city limits and transported to a location beyond the limits of the city; or
- (e) operated by an agent or employee of the federal or state government if such service is done in performance of his official duties.

Sec. 5-4. Provision of EMS and First Responder Services

The City provides EMS to residents of the City through a contract with an EMS provider. The City provides First Responder services for its residents through services provided by its Fire Department under a First Responder Agreement with its EMS provider.

Sec. 5-5 – Sec. 5-9 Reserved

ARTICLE III. EXCLUSIVE FRANCHISE FOR EMS AND NON-EMERGENCY AMBULANCE TRANSFER SERVICE

Sec. 5-10. Franchise required.

It shall be unlawful for any person to furnish, operate, advertise or otherwise engage or profess to be engaged in the operation of EMS or non-emergency ambulance transfer service from a point originating and ending within the streets of the City without a franchise as provided by this article.

Sec. 5-11. Franchise application; requirements.

Applications for an EMS and non-emergency ambulance transfer service franchise may be solicited by the City through a request for proposals from time to time as deemed necessary by

the City. The requirements and selection criteria will be included in any request for proposals initiated by the City.

Sec. 5-12. Franchise fee.

(a) To compensate the City for the use of public streets and right-of-way, the nonemergency ambulance transfer service franchise holder shall, during the life of said franchise, pay to the City, at the office of the Director of Finance in lawful money of the United States, three and one-half (3½%) percent of the total amount billed for the ambulance service fees and other income derived from the operation of the ambulance service within the City, which said remittance shall be made monthly on or before the tenth day of each calendar month. The compensation provided for in this section shall be in lieu of any other fees or charges imposed by any other ordinance now or hereinafter in force during the life hereof, but shall not release the franchise holder from the payment of ad valorem taxes levied, or to be levied, on property it owns.

(b) It shall be the duty of a franchise holder to file with the Director of Finance a sworn statement for each calendar quarter showing the total amount billed for service within the City for the preceding three (3) months which statement shall be filed within ten (10) days following the end of the third month. A franchise holder herein shall be required to install and adequately keep a system of bookkeeping to be approved by the Director of Finance, which books shall be subject to inspections of the governing body of the City and such person or persons as the City may designate, or either of them, so as to enable the City to check the correctness of the accounts kept and to compute fairly and accurately the amount billed that may be due to the City.

(c) The franchise fee established in subsection (a) shall not be collected for any operational year in which the City is not requested to financially subsidize the operation of the ambulance service within the City.

Sec. 5-13. Transfer of franchise.

No assignment, sale or subletting of any part of this franchise shall ever be made by the franchise holder herein without first receiving written approval of the City Council of the City of Abilene.

Sec. 5-14. Inspection of books and records.

The books and records of the EMS and non-emergency ambulance transfer service franchise holder shall be open at any reasonable time for inspection by the City Manager or any official designated by the City Manager.

Sec. 5-15. Rates.

Any person who uses the ambulance services of the City's franchise holder shall be charged for such services. The franchise holder may from time to time adjust certain rates if/as allowed by the contract or by filing an application with the City Secretary for consideration of the City Council.

The City Council hereby expressly reserves the right, power, and authority under any franchise granted, to review the charges for the services of the franchise holder to its customers, fully reserving to the City Council all the rights, powers, privileges, and immunities, subject to the duties, limitations and responsibilities which the Constitution, the laws of the State, and the Charter confer upon the City.