

ORDINANCE NO. 729

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 8, BUSINESS REGULATIONS; REPEALING SECTION 8-3.1; ENACTING ARTICLE V, AMBULANCES; LICENSING AND REGULATING OPERATORS OF PRIVATE AMBULANCES; DEFINING CERTAIN TERMS; PROVIDING PROCEDURES AND QUALIFICATIONS FOR THE ISSUANCE OF PERMITS AND LICENSES; PROVIDING FOR A PUBLIC HEARING; PROVIDING RULES AND REGULATIONS; PROVIDING FOR EQUIPMENT STANDARDS; REQUIRING PUBLIC LIABILITY INSURANCE; PROVIDING FOR REGULATION OF AMBULANCE SERVICE RATES; PROVIDING FOR CERTIFICATION OF ATTENDANTS; PROVIDING EXCEPTIONS; PROVIDING GROUNDS FOR REVOCATION OF LICENSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING PENALTIES FOR VIOLATION HEREOF; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1: That Section 8-3.1, Franchise or License Required for Operation of Ambulance Service, of Chapter 8, of the Abilene Municipal Code be, and the same is hereby repealed.

PART 2: That Chapter 8, Business Regulations, of the Abilene Municipal Code be, and the same is hereby amended by adding Article V, Ambulances, as follows:

ARTICLE V. Ambulances

Sec. 8-47. Definitions.

The following words and phrases as used in this ordinance, unless a different meaning is plainly required by the context, shall have the following meanings:

- (a) "Ambulance". Any privately owned vehicle equipped or used for transporting the wounded, injured, sick and including, but not restricted to, emergency vehicles used for such purpose, and invalid coaches, but does not include funeral coaches used for the transportation of the dead or air ambulance service.
- (b) "Ambulance Service". Any transporting of patients or persons for hire or gratuitously, either for emergency or transport reasons performed by an ambulance service, but does not include funeral coaches used for the transportation of the dead or air ambulance service.
- (c) "Attendant". A trained and/or qualified individual responsible for the operation of an ambulance and the care of the patients, whether or not the attendant also serves as driver.
- (d) "Attendant Driver". A person who is qualified as an attendant and a driver.
- (e) "City". The City of Abilene, Texas.
- (f) "Council". The City Council of the City of Abilene, Texas.
- (g) "License". A license of public convenience and necessity as hereinafter described.

(h) "License Officer". The Chief of Police of the City of Abilene, Texas.

(i) "Permit". The operating permit which an operator is required to obtain hereunder for each and every motor vehicle operated under the terms of this ordinance.

(j) "Person". Any person, firm, partnership, association, corporation, company or organization of any kind.

Sec. 8-48. License Required.

(a) General. No person shall operate an ambulance or ambulance service upon the streets of the City without first obtaining a license of public convenience and necessity, as hereinafter provided, from the City Council. No such license shall be granted until after publication of notice and public hearing under the procedures set forth in this ordinance.

(b) Exception. Article V shall not apply to any ambulance operated by any agent or employee of the federal or state government or agency thereof if such service is done in performance of his official duties.

Sec. 8-49. Annual License Fee.

No license shall be issued or continued in operation unless the holder thereof has paid an annual license fee of Fifty Dollars (\$50.00) for the right to engage in the ambulance business, and Twenty-Five Dollars (\$25.00) each year for each vehicle authorized under such license and for which a permit is issued, as provided for herein. The amount of license fees herein prescribed shall not be prorated for fractional parts of a calendar year.

Sec. 8-50. Application for License.

Every application for a license hereunder shall be in writing, signed and sworn to by the applicant, and shall be filed with the City Secretary of the City of Abilene. The application shall be on a form provided by the City Secretary and shall contain the following:

(a) If the applicant is a corporation or proposes or intends to do business as a corporation, such application shall contain:

1. The corporate name.
2. Place and date of incorporation.
3. Names and addresses of the incorporators.
4. Names, addresses and corporate titles of all corporate officers.
5. Name and address of the corporate registered agent.
6. Names and addresses of all person owning or otherwise holding as much as ten percent (10%) of any corporate stock.

(b) If the applicant is a partnership or association or proposes or intends to do business as a partnership or association, such application shall contain:

1. Name of the partnership or association.
2. Names and addresses of all partners or associates, whether limited or general.

(c) If the applicant is a private person or sole proprietor and proposes or intends to do business as a private person or sole proprietor, such application shall contain:

1. Applicant's name and address.
2. Any trade or other fictitious name under which applicant does or proposes to do business.

(d) The number of vehicles the applicant proposes to operate, together with a description of each such vehicle, when available, including the make, model, year of manufacture, Texas State License number for the current year, motor and chassis number, and the length of time such vehicle has been in use.

(e) The location and description of the place or places from which it is intended such vehicle shall be operated.

(f) A copy of applicant's State Ambulance License shall be filed with the City Secretary prior to operation.

(g) A schedule of proposed rates to be charged by applicant.

(h) Copies of all insurance policies required hereunder or a certificate of insurance evidencing that such policies are in force or a binding agreement to obtain such coverage prior to the commencement of service.

(i) A complete and up-to-date financial statement of the applicant, partnership, every partner or associate, and if such applicant be a corporation, a complete and up-to-date balance sheet of such corporation.

(j) A complete list of the names and addresses of all persons employed by applicant, whether full or part-time.

(k) Such other information as the City Manager shall determine to be reasonably necessary to a fair determination of the applicant's qualifications to operate an ambulance service in the City of Abilene.

Sec. 8-51. Public Hearing; Notice.

Within thirty (30) days after the receipt of an application as provided for herein, the Council shall cause a public hearing to be held concerning such application. Notice of such hearing shall be given in writing to the applicant and to all persons holding licenses for ambulance service in the city. Notice shall be given to the public by publication in a newspaper published in the city, not less than ten (10) days prior to the date of such public hearing.

Sec. 8-52. Issuance of License.

The City Council shall not grant any license hereunder unless it finds the following:

(a) That the public convenience and necessity require the proposed ambulance service for which the application has been submitted, and that such service would not adversely affect total ambulance service to the people of Abilene nor adversely affect the overall costs or quality thereof.

(b) That the applicant possesses or has submitted a binding agreement to provide ambulance vehicles and equipment, complying with the standards herein required.

(c) That the applicant has procured or submitted a binding agreement to secure the insurance, as required by this ordinance.

(d) That the applicant and all attendants, drivers and attendant drivers are fit and proper persons to conduct the proposed ambulance service.

(e) That all the requirements of this ordinance, all other applicable ordinances of the City of Abilene and all applicable State laws have been met by the applicant.

In determining whether public convenience and necessity require the licensing of the proposed ambulance service, the Council shall consider whether the public is, at the time adequately served, the financial responsibility of the applicant, the number, kind and type of equipment to be operated by the applicant, a schedule of rates proposed to be charged, whether the safe use of the streets by the public, both vehicular and pedestrian will be preserved, and such other facts as the Council shall consider relevant.

(f) A conditional license may be granted subject to the applicant complying with all the conditions of Article V; but any applicant granted a conditional license who has not fulfilled all the conditions of Article V, shall not go into operation until all the conditions are fulfilled and all the information required by Article V has been filed with the City Secretary.

All conditional licenses granted subject to the fulfillment of the conditions of Article V, shall expire and be null and void, if the applicant has not complied with all the conditions in ten (10) days, from the date of the issuance of the license.

If the conditions are not met in ten (10) days, the applicant must reapply to the City Council for new license.

Should a question arise as to the applicant's compliance with Article V, where a license has been granted subject to certain conditions being met, the applicant may request a hearing before the City Council, which shall consider the applicant's license, and may revoke or grant said license if the applicant has complied with all of Article V.

An applicant who previously has been given a conditional license subject to meeting certain conditions and has failed to meet those conditions, will not be issued another conditional license, but can apply for license if he has met all the requirements of Article V.

Sec. 8-53. Insurance.

(a) Minimum Required. An applicant herein shall file with his application, an insurance policy to be approved by the City Attorney providing insurance coverage for each and every ambulance owned, operated and/or leased by the applicant for injury to or death of persons in accidents resulting from any cause for which the owner of said vehicle would be liable on account of any liability imposed on him by law, regardless of whether the ambulance was being driven by the owner, his agent or lessee, and as against damage to the property of another, including personal property, under like circumstances, in sums as may be approved by the City Attorney but in no event to be less than \$100,000.00 per person, \$300,000.00 per any one occurrence, \$50,000.00 property damage, plus umbrella coverage of not less than \$1,000,000.00.

(b) Continuance After Recovery. Every such policy of insurance shall continue to the full amount thereof, notwithstanding any recovery thereon, and the liability of the insurer shall not be affected by the insolvency or bankruptcy of the assured. The policy shall run to the City for the benefit of any and all judgment creditors.

(c) Coverage Period. Every insurance policy required hereunder shall extend for the period to be covered by the license applied for and the insurer shall be obliged to give not less than thirty (30) days written notice to the city and to the assured before any cancellation or termination thereof earlier than its expiration date and the cancellation or other termination of any such policy shall automatically revoke and terminate the licenses issued for the ambulances covered by such policy, unless another insurance policy complying with the provisions of this section shall be provided and be in effect at the time of such cancellation or termination.

Sec. 8-54. Schedule of Rates; Posting.

Rates to be charged for all ambulance services within the City of Abilene shall be determined by the Council upon application of the operator. Any changes or revision to such rates shall be accomplished in a like manner after notice and public hearing before the Council. A true and correct copy of the authorized rates shall be filed with the City Secretary's office and maintained therein for inspection by interested members of the public. Every ambulance shall have posted in a conspicuous place readily visible to the occupants, a statement showing the rates to be charged. Such rates, as posted, shall be the same as those contained in the schedules filed with the City Secretary's office.

Sec. 8-55. Vehicle Permit Required.

No licensee or ambulance operator shall operate any ambulance vehicle within the city until a permit has been issued for such vehicle, as hereinafter provided. Such permit shall be valid for a period of one (1) year from date of issue.

Sec. 8-56. Issuance of Permit; Minimum Standards.

Each ambulance operated within the city shall be inspected by the License Officer and have affixed to its windshield a permit issued by him, certifying that the following minimum standards have been met.

(a) That such vehicle carry the minimum equipment recommended in guidelines set forth by the American College of Surgeons. The City Secretary shall maintain an up-to-date copy of such guidelines.

(b) Any ambulance acquired, whether by purchase, lease or any other means and used by an operator for ambulance service within the city from and after July 1, 1975, shall be so constructed as to have a minimum of fifty-four (54) inches headroom in the passenger compartment.

(c) That such vehicle is in a satisfactory and safe mechanical condition.

Sec. 8-57. Transfer of Vehicle Permit.

Permits issued for any vehicle may be transferred to another vehicle belonging to the same licensee, upon filing with the License Officer an application therefor, duly verified, and showing that the vehicle for which the permit was previously issued has become obsolete or has been destroyed, and that such vehicle is no longer to be used for the purpose herein contemplated. The vehicle to which the permit is transferred shall conform with all the requirements of this ordinance, as required of the original vehicle. If satisfied that the transfer is in good faith and not for the purpose of evasion, the License Officer shall require a surrender of the former permit and issue a new one, charging therefor a transfer fee of Fifteen Dollars (\$15.00).

Sec. 8-58. Annual Inspection.

Each ambulance, for which a permit is required under this ordinance, shall be inspected not less than once every twelve (12) months to insure that the minimum standards prescribed for such vehicle, as hereinabove set forth, are being met. Failure to meet such minimum standards shall result in a revocation of such vehicle permit and a discontinuance of its use as an ambulance within the city. The operation of an ambulance without the required permit shall be unlawful.

Sec. 8-59. Attendants; Certification.

(a) No person shall serve as an ambulance attendant within the city, who has not satisfactorily completed the American Red Cross Standard First Aid Course and the American Red Cross Advanced First Aid Course.

(b) Satisfactory evidence of the completion of the course, as set forth in (a) above, must be submitted in the form of photostatic copies of Course Completion Cards to the City Secretary of the City of Abilene, Texas.

Sec. 8-60. Rules and Regulations.

All ambulance operators within the city shall comply with the following regulations:

(a) Every license holder shall be required to provide immediate ambulance service twenty-four (24) hours daily, each and every day.

(b) Every ambulance operator shall adopt and use, after approval by the License Officer, a distinctive, uniform color scheme, which shall not infringe upon any color scheme already in use by another ambulance operator; and each ambulance shall be identified in such a manner as clearly indicates that the vehicle is used for ambulance purposes only. No other type of advertising may be used on the vehicle.

(c) The ambulance operator's business name shall appear on each side and on the rear of the vehicle in letters of not less than three (3) inches in height and one-half (1/2) inch in stroke on a metal portion of the body.

(d) Every call for ambulance service shall be answered promptly. Patients shall be loaded and transported without being subjected to unreasonable delays.

(e) Clean and sanitary bed linens shall be provided for each patient carried and shall be changed as soon as practicable after the discharge of a patient.

(f) Every operator shall provide each driver with a daily manifest, upon which shall be recorded the time, place of origin, destination and charges for each trip made.

(g) Every operator shall retain and preserve all daily manifests for at least twelve (12) months, and said manifests shall be available for inspection by the city on request.

(h) Every operator shall, at all times, have stationed at his central place of business, a person who shall be required to properly answer all calls for service, promptly dispatch ambulances and be generally responsible for the conduct of the business.

Sec. 8-61. Exceptions.

The provisions of this ordinance shall not apply to any ambulance or ambulance service or to the driver or attendant thereof of any ambulance:

(a) Which is rendering assistance to patients in case of a major catastrophe or emergency with which the licensed ambulances of the City of Abilene are unable to cope; or

(b) Which is 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) Which is 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) Which is transporting a patient picked up from a location within the limits of the city and transported to a location beyond the limits of the city, providing said ambulance or ambulance service initially transported said patient into the city and is making the return trip; or

(e) Which is transporting a patient who is picked up from a location within the limits of the city and transported to a location beyond the limits of the city, providing said ambulance or ambulance service has its principal place of business located beyond the limits of the City of Abilene, Texas.

Sec. 8-62. Revocation of License.

Every license issued hereunder shall be subject to revocation or suspension by the City Council where it shall appear that:

(a) The operator has failed or neglected to render the full service authorized by his license.

(b) The operator has been convicted of a felony or any criminal offense involving moral turpitude.

(c) The license was obtained by an application of which any material fact was omitted or stated falsely.

(d) The operator has persisted in permitting his motor vehicles to be operated in violation of any law.

(e) The operator has failed to comply with any of the provisions hereof, or has willfully or knowingly violated any of the provisions hereof.

(f) The operator has given or allowed a rebate commission or any reduced rate discount not provided for in the rates established and prescribed herein.

(g) The operator or his agent has induced or sought to induce a change of destination to or from a hospital or other place specified by the person hiring the ambulance.

(h) The operator or his agent has knowingly received any payment, favor, or gratuity from any mortuary operating in the city for the purpose of inducing any person transported by said operator or his agent to utilize the services of said mortuary, and no ambulance operator shall engage in or have any financial interest in a mortuary service.

(i) The operator allows his insurance as provided in this ordinance to be cancelled, withdrawn or terminated.

(j) The operator allows his vehicles or equipment to become damaged, deteriorated or unclean to the extent that it is, in the judgment of the Council, unfit for public use.

Sec. 8-63. Revocation Proceedings.

Proceedings for the revocation or suspension of a license shall be undertaken by the City Council in the same manner as proceedings for issuance of a license. All complaints shall be referred to the City Manager, who shall cause an investigation to be made prior to any action for revocation or suspension, the City Secretary shall give ten (10) days notice thereof by Certified Mail to the operator holding the license, that the same will be considered at a certain date which shall be not less than thirty (30) days from the date of the notice. The City Council shall thereupon undertake to consider the complaint and either revoke or suspend the license or dismiss the complaint.

PART 3: That, upon passage of this ordinance on first reading, the City Secretary be, and she is hereby authorized and directed to cause to have published in the Abilene Reporter News, a daily newspaper of general circulation in the City of Abilene, a notice that a public hearing will be held in the Council Chamber of the City Hall, in Abilene, Texas, at 9:00 A.M., on the 10th day of October, 19 74, to permit the public to be heard prior to consideration of this ordinance for second and final reading, said publication to be made more than ten (10) days prior to the time designated for such public hearing.

PART 4: That if any provision or of any Section of this Ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions of this Ordinance which shall remain in full force and effect.

PART 5: That any person, firm or corporation violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Two Hundred Dollars (\$200.00). Each such violation which shall continue or be permitted to continue shall be a separate offense.

PART 6: This Ordinance shall take effect immediately from and after its date of final passage.

PASSED ON FIRST READING this the 26th day of September, A. D. 1974.

After passage, 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 the 30th day of September, 19 74, the same being more than ten (10) days prior to the time designated for said hearing. After such opportunity for the public to be heard, said Ordinance was passed on its second and final reading.

PASSED ON SECOND AND FINAL READING this the 10th day of
October, A. D. 1974.

Bob [Signature]
MAYOR Pro Tempore

ATTEST:
Paul B. Hodgkin
CITY SECRETARY

APPROVED:
Henry [Signature]
FIRST ASSISTANT CITY ATTORNEY