

AN ORDINANCE REPEALING THE PRESENT CHAPTER 5, "AMBULANCES", OF THE ABILENE MUNICIPAL CODE AS SET OUT BELOW, ADDING A NEW CHAPTER 5 "AMBULANCES" AS SET OUT BELOW, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING A PUBLIC HEARING.

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

PART 1: That the present Chapter 5, "Ambulances", of the Abilene Municipal Code be repealed and a new Chapter 5 be added as set out in Exhibit "A", attached hereto and made a part of this Ordinance for all purposes.

PART 2: That if any provision or 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 or sections of this ordinance, which shall remain in full force and effect.

PART 3: 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 Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 8 day of May, 1997.


After said passage on first reading, a notice of time and place, where and when said ordinance would be given a public hearing and considered for second and 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 18 day of May, 1997, the same being more than twenty-four (24) hours prior to the time designated for said hearing. After such opportunity for the public to be heard, said ordinance was passed on second and final reading.

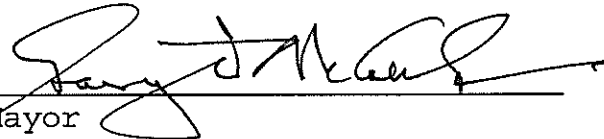
Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING this 22 day of


May, 1997.

ATTEST:

  
\_\_\_\_\_  
City Secretary

  
\_\_\_\_\_  
Mayor

APPROVED:

  
\_\_\_\_\_  
City Attorney

## Chapter 5

### AMBULANCES

Art. I. IN GENERAL, §§ 5-1--- 5-21

Art. II. LICENSE, §§ 5-22--- 5-45

Art. III. CONDUCT OF BUSINESS, §§ 5-46--- 5-53

#### ARTICLE I. IN GENERAL

##### Sec. 5-1. Definitions.

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

*Ambulance:* Any privately owned vehicle equipped or used for transporting the wounded, injured, sick and including, but not restricted to, emergency or transfer 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.

*Ambulance Service:* Any transporting of patients or persons for hire or gratuitously, either for emergency or transfer reasons performed by an ambulance, but does not include funeral coaches used for the transportation of the dead or air ambulance service.

*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.

*Attendant driver:* A person who is qualified as an attendant and a driver.

*Emergency:* Any circumstance that calls for immediate action and in which the element of time in transporting the sick, wounded or injured for medical treatment is essential to the health or life of the person.

*License:* A license of public convenience and necessity.

*License officer:* The city manager or his designee.

*Permit:* The operating permit which an operator is required to obtain hereunder for each and every motor vehicle operated under the terms of this chapter.

*Transfer:* Any circumstance in which a patient is transported from a location within the city limits of the City of Abilene, Texas, to a location outside the city limits of the City of Abilene, Texas.

**Sec. 5-2. Exceptions.**

The provisions of this Chapter 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 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.

**Sec. 5-3. Schedule of emergency rates; posting.**

Rates to be charged for all emergency ambulance services within the city 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. 5-4. Certification of attendants.**

- (a) Any person serving as an emergency ambulance attendant within the city must be currently certified by the Texas Department of Health as an emergency medical technician, emergency medical technician-intermediate, or emergency medical technician-paramedic as appropriate for the units which the person is staffing. Any

person serving as a transfer ambulance attendant within the city must be currently certified by the Texas Department of Health as an emergency medical technician.

- (b) Current photostatic copies of state certification must be filed with the city secretary.

**Sec. 5-5. Twenty-four (24) hour emergency ambulance service.**

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

**Sec. 5-6. Promptness of service.**

Each emergency ambulance operator must respond to emergency requests for service in the city limits ninety percent (90%) of the time in under ten (10) minutes and fifty-nine (59) seconds measured from time of notification to arrival on the scene.

Each emergency operator must provide the city with a quarterly report indicating its total emergency responses in the city limits, demonstrating its quarterly compliance with the promptness requirement, and indicating its overall average response time for all emergency calls in the city limits.

**Sec. 5-7. Identification.**

- (a) 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 or the Abilene Fire Department; 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.
- (b) 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.

**Sec. 5-8. Sanitary procedures.**

Each ambulance operator must comply with all applicable state and federal laws, rules and regulations regarding infectious disease prevention, personnel inoculation, and blood-borne and air-borne pathogen disposal.

**Sec. 5-9. Dispatch.**

- (a) Each emergency ambulance operator must operate a dispatch center twenty-four (24) hours per day, each and every day, to properly answer service calls, promptly dispatch ambulances, and handle communications with other agencies and entities.
- (b) Each emergency ambulance operator must staff the dispatch center with personnel certified by the State as an EMT, EMT-I or EMT-P. Each emergency ambulance operator must require each dispatcher to also be certified as an Emergency Medical Dispatcher within twelve (12) months of employment.
- (c) Each ambulance operator shall, Monday through Friday, between the hours of 8:00 a.m. to 5:00 p.m., have stationed at his central place of business, a person who must properly answer calls and be generally responsible for the conduct of the business.

**Secs. 5-10-- 5-21. Reserved.**

## ARTICLE II. LICENSE

### Sec. 5-22. Required.

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 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 Article.

An applicant granted permission to operate emergency ambulance service may also perform transfer ambulance service.

### Sec. 5-23. Exception.

The provisions of this Article 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. 5-24. Application and fee.

Every application for a license required by this Article shall be in writing, signed and sworn by the applicant, and shall be filed with the city secretary. A fee in the amount of five hundred dollars (\$500.00) shall accompany the application. 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 persons 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, state license number for the current year, motor and chassis number, and the length of time such vehicle has been in use. See "Number of units" for the minimum number of vehicles to be provided.
- (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 Emergency Medical Service 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) Complete and up-to-date financial statements of the applicant, including income statements and balance sheet, and any supporting documentation as required.
- (j) A complete list of the names and, addresses of all persons employed by applicant, whether full or part-time, with any changes to be provided on a quarterly basis.
- (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.

**Sec. 5-25. Fee.**

The annual fee for a license required by the provisions of this Article shall be one hundred dollars (\$100.00). The amount of such fee shall not be prorated for fractional parts of a calendar year.



**Sec. 5-26. Public hearing; notice.**

Within thirty (30) days after the receipt of an application for a license under this article, the city 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. 5-27. Ascertaining public convenience, necessity.**

In determining whether public convenience and necessity require the licensing of a proposed ambulance service, the city 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 city council shall consider relevant.

**Sec. 5-28. Prerequisites to issuance.**

The city council shall not grant any license under this article unless it finds the following:

- (a) That all operators shall provide similar emergency service and transfer service per city requirements.
- (b) That the public convenience and necessity require the proposed emergency or transfer ambulance service for which the application has been submitted, and that such service would not adversely affect total ambulance service to the people of this city nor adversely affect the overall costs or quality thereof.
- (c) That the ambulance service for which the application has been submitted is needed to enhance service.
- (d) That the applicant has demonstrated a financial and business stability by and through financial documentation and/or previous experience in providing the same or similar ambulance service in other locations. If said applicant is a new provider, evidence of financial resources to supply all equipment and services shall be submitted.
- (e) That the applicant possesses or has submitted a binding agreement to provide ambulance vehicles and equipment, complying with the standards herein required.
- (f) That the applicant has procured or submitted a binding agreement to secure the insurance, as required by this Article.

- (g) That the applicant and all attendants, drivers and attendant drivers are fit and proper persons to conduct the proposed ambulance service.
- (h) That all the requirements of this chapter, all other applicable ordinances of the city, and all applicable state laws have been met by the applicant.

**Sec. 5-29. Conditional licenses.**

In the event that there is no service available, a conditional license may be granted subject to the applicant complying with all the conditions of this chapter.

All conditional licenses granted subject to the fulfillment of the conditions of this chapter, 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 this chapter, 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 this chapter.

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 this chapter.

**Sec. 5-30. Performance bond.**

An applicant shall provide a Performance Surety Bond in the amount of one million dollars (\$1,000,000). Said Bond shall be forfeited for any of the following conditions:

- (a) Failure to give 90 days advance written notice of termination of business.
- (b) Failure to correct a material breach of the terms and conditions of this ordinance within a (ten) 10 day period, after receiving written notice of same. A material breach is one that is one of urgent public necessity (i.e., failing to provide the proper number of or properly operating units, failing to provide liability insurance, engaging in discriminatory practices, any unsafe or illegal activity that might affect the citizens of Abilene).

**Sec. 5-31. Insurance-Minimum coverage.**

An applicant for a license required by this Article must provide proof of insurance approved by the city manager which evidences required coverage types and amounts. Required insurance must be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. An original certificate of insurance or a certified copy of the insurance policy is required.

At a minimum the insurance:

- (a) Must provide workers' compensation employer's liability coverage as statutorily required; commercial (public) liability in the amount of one million dollars (\$1,000,000.00); and business automobile liability in the amount of five hundred thousand dollars (\$500,000.00).
- (b) Must name the city as an additional insured.
- (c) Insurance provided must be primary insurance and not contributing with any other insurance available to the city.
- (d) Must provide for thirty (30) day advance written notice of cancellation or material change of coverage.

If an applicant is granted a license, the city may increase the minimum required amount of insurance coverage by giving the operator ninety (90) days notice.

**Sec. 5-32. Same-Continuance after recovery.**

Every 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 insured. The policy shall run to the city for the benefit of any and all judgment creditors.

**Sec. 5-33. Same-Coverage period.**

Each insurance policy required by this article must extend for the license period. In the event a required policy is canceled, expires or is otherwise terminated, and the ambulance operator does not provide the city with proof of an alternative policy meeting the provisions of this article with no break in coverage, the license issued is automatically revoked and terminated.

**Sec. 5-34. Revocation or suspension of license.**

Every license issued under this article shall be subject to revocation or suspension by the city council where it shall appear that any of the following has occurred:

- (a) The operator has failed or neglected to render the full service authorized by his license, including the performance of all emergency and non-emergency transports.
- (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 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, or as otherwise acceptable by Medicare and/or Medicaid.
- (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, provided, however, this shall not apply to emergencies.
- (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 article to be canceled, 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 city council, unfit for public use.
- (k) A performance bond has not been secured or is allowed to be revoked or canceled.

- (l) The operator files for, or is involuntarily placed in, bankruptcy.
- (m) The operator's license is suspended or revoked by the Texas Department of Health.

A license may be temporarily suspended by the city manager for a period not to exceed (ten) 10 days while the city investigates allegations against the operator of charges of negligence, gross conduct, and/or criminal activity.

**Sec. 5-35. 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.

**Sec. 5-36. Indemnity.**

Independent of the requirement to provide insurance, each ambulance operator must indemnify, hold harmless and defend the city, its officers, agents and employees, from and against liability for any and all claims, liens, suits, demands, and/or actions for damages, injuries to persons (including death), property damage (including loss of use), and expenses, including court costs and attorneys' fees and other reasonable costs arising out of the ambulance operator's work and/or activities conducted in connection with this ordinance, including all causes of action based upon common, constitutional, or statutory law, or based in whole or in part upon the negligent or intentional acts or omissions of the ambulance operator, its officers, agents, employees, subcontractors, licensees, invitees, and other persons.

The indemnity does not apply to liability arising solely out of emergency medical assistance rendered by the City of Abilene, Texas, personnel.

In any action based on an allegation of joint negligence on the part of the ambulance operator and city, each party shall only be responsible for that portion or percentage of any damages awarded which is directly attributable to the negligence of that party.

The city and the ambulance operator must provide the other prompt and timely notice of any event covered by this chapter which in any way affects or might affect the ambulance operator or city, and the city has the right to compromise and defend the same to the extent of its own interests. This indemnity provision is an additional, not exclusive, remedy for the city.

**Secs. 5-37--- 5-45 Reserved.**

### ARTICLE III. CONDUCT OF BUSINESS

#### Sec. 5-46. Number of units.

Each ambulance operator must operate appropriate number of units to meet the requirements of public convenience and necessity. The minimum requirements are presumed to be:

- (a) Maintain, staff, and operate not less than two (2) MICU-staffed units on a twenty-four (24) hour basis.
- (b) Maintain two (2) additional MICU capable units staffed as needed with on call personnel within twelve (12) minutes of the station.
- (c) Maintain at least two (2) reserve ambulance vehicles, of at least BLS certification.
- (d) All units must meet all applicable state standards.

#### Sec. 5-47. Personnel.

Each ambulance operator must provide fully certified personnel, as defined in the Emergency Medical Services Act, to operate its ambulance vehicles.

Each ambulance operator must provide to the city and maintain a listing of all certified personnel including name and level of certification, updating the list as necessary, but at least quarterly.

#### Sec. 5-48. Joint response.

Each emergency ambulance operator must refer all calls for emergency medical assistance in life-threatening situations and all other emergency ambulance requests (Code 3) to the City of Abilene's Emergency Services (Police and/or Fire) Dispatcher for joint response. Each emergency ambulance operator must dispatch its units in response, and acknowledge its response to the city's dispatcher. On all joint responses, the responder arriving first must begin emergency medical procedures, as necessary.

#### Sec. 5-49. No debt to city.

No payments owed by an ambulance operator to the city, including payment in advance for service charges, may become delinquent or in arrears.

**Sec. 5-50. No assignment.**

The operation or ownership of an ambulance service shall not be assigned or transferred in whole or in part without prior written consent of the city.

**Sec. 5-51. Right to inspect books, records and facilities.**

Upon giving reasonable notice to the ambulance operator, the city is permitted to inspect the books and records of the ambulance operator at a reasonable time but only as to business relating to the provision of emergency medical services.

The city is allowed to make inspections of the ambulance operator's facilities during regular business hours, or such other times as are mutually agreeable. Such inspection shall not unduly interfere with the ambulance operator's business.

**Sec. 5-52. Financial records and audit.**

Each ambulance operator must keep all of its financial records in a manner consistent with generally accepted accounting principles as followed by the American Institute of Certified Public Accountants. Within six (6) months of close of the fiscal year of each year, each ambulance operator must, at its expense, present to the city an audit report and consolidated financial statement of the business, whether sole proprietorship, company, partnership, or corporation and its subsidiaries, together with an auditor's opinion that the financial records are kept in conformity with generally accepted accounting principles and that the audit present fairly the financial position of the business.

**Section 5-53. Venue.**

Venue for any proceeding relating to this ordinance shall be in Taylor County, Texas.