

ORDINANCE NO. 2019-30

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, REGULATING CERTAIN EMERGENCY MEDICAL SERVICES AND AMBULANCES; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR ANY VIOLATION OF THIS ORDINANCE;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS:

Sec. 1. Findings of fact.

- a. The City Council hereby finds that all statements of fact in any portion of this ordinance are true.
- b. This ordinance is in the best interest of the health, safety, and welfare of the people of Iowa Colony.
- c. All requirements of law have been satisfied concerning the passage of this ordinance.

EMERGENCY MEDICAL SERVICES AND AMBULANCE REGULATIONS

Sec. 2. Definitions.

For the purposes of this ordinance, certain words and phrases are defined as follows:

Ambulance shall mean any privately or publicly-owned motor vehicle used, designed or redesigned and equipped for the primary purpose of the transportation of the sick or injured persons, whether functioning as a basic life support, advanced life support, or mobile intensive care unit service level as provided by state law, and shall include gurney cars but not wheelchair vans.

City shall mean the City of Iowa Colony, Texas.

City limits shall mean the area in the city within the corporate city limits.

Department shall mean any designated emergency medical service in the City.

DSHS shall mean the Texas Department of State Health Services as presently constituted, or a successor agency.

Direct call shall mean a request for ambulance service made by telephone or other means directly to an ambulance operator, his or her agents or employees.

Emergency ambulance shall mean an ambulance used, designed, redesigned or equipped for the purpose of transporting sick or injured persons under emergency circumstances, and the rendering of first aid.

Emergency circumstance shall mean the existence of circumstances in which the element of time in expeditiously transporting a sick or injured person for medical or surgical treatment is essential to the health or life of such person, and in which rescue operations or competent first aid or both, at the place of emergency, may be essential to the health or life of such person.

ETJ shall mean the city's extra-territorial jurisdiction.

Non-emergency medical transfer service license shall mean a certificate of authorization issued by the city to the owner of a business allowing such owner to operate a non-emergency medical transfer service business within the city limits.

Non-emergency medical transfer service permit shall mean a certificate of authorization issued by the city to the owner allowing such owner to operate an ambulance for non-emergency medical transfer services within the city limits.

Non-emergency medical transfer service provider shall mean a person providing non-emergency medical transfer services pursuant to a valid non-emergency medical transfer services license.

Non-emergency transfer service shall mean a pre-scheduled response made by an ambulance for the transportation of individuals to or from a medical facility, a nursing home, an assisted living facility, dialysis center, or residence under circumstances, which do not constitute an emergency.

Sec. 3. Business license and vehicle permits required; exceptions.

(a) *Required.* No person shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in the operation of non-emergency medical transfer services upon or over any public street within the city limits without having first obtained a non-emergency medical transfer services business license and an ambulance permit for each vehicle providing said services within the city limits.

(b) *Exception.* Non-emergency medical transfer services business licenses and ambulance permits shall not be required for:

(1) Emergency medical service vehicles or ambulances owned or operated by or designated by the city or another governmental entity;

(2) Emergency medical service vehicles or ambulances operating at the request of the city or the designated emergency medical service provider for the city in cases of mutual aid, a disaster, or system overload; or

(3) Emergency medical service vehicles or ambulances operating from a location outside the city limits and who are transporting patients from a location outside the limits of the city to a location within the city or through the city to some other location.

(c) *Fees.* Each application for a license or permit required by the city shall be accompanied by a non-refundable fee, payable to the City of Manvel, as listed below, to cover the expense of carrying out the provisions of this ordinance: provided, however, that any fee amounts stated in the fee ordinance of the City from time to time shall govern and control over the fees stated in this ordinance:

License application fee, per year: \$500.00

Permit fee (each ambulance), per year: \$100.00

There shall be no prorating of fees.

The ambulance permit fees are in addition to the business license fee.

Sec. 4. Business license.

(a) An application for a business license to operate an ambulance on the public streets of the city for the purpose of providing non-emergency transfer ambulance service within the city shall be made by the business owner thereof, or an agent authorized in writing by such owner to make such application, on forms prepared by the city manager or city employee designee which shall contain:

- (1) The name, address and telephone number of the owner;
- (2) Any trade or other fictitious name used or to be used by the owner when providing ambulance service;
- (3) The make, model, year of manufacture, motor and chassis number, and current state license number of each ambulance;
- (4) The length of time each ambulance has been in service;
- (5) The color scheme, insignia, name, monogram or other distinguishing characteristics used or to be used by the owner to designate such ambulance;
- (6) A complete report on whether or not the applicant has any legal claims alleged, pending lawsuits or judgments against the applicant for damages resulting from the operation of the applicant's ambulance(s); and
- (7) A complete report including background and criminal history checks on each attendant answering calls in the City.

(b) *Insurance.* Any applicant for a permit under this ordinance shall, before the permit can be issued, procure, maintain, and furnish proof of financial responsibility as required by law and as prescribed in this section. The applicant shall keep in full force and effect during the entire term of this permit, the insurance coverages for commercial general liability, automobile liability and professional liability in the minimum limits listed:

(1) Automobile liability insurance in the amount of not less than \$100,000.00 for each person and \$500,000.00 for each accident for personal injuries, and \$100,000.00 for property damage. This automobile liability insurance shall not contain passenger liability exclusion. A written statement from an authorized agent of the ambulance operator's insurance carrier shall provide for a 30-day cancellation notice to the City.

(2) Commercial general liability insurance with a minimum aggregate of \$3,000,000.00 and a minimum per occurrence of \$1,000,000.00.

(3) Professional liability insurance in an amount of not less than \$1,000,000.00.

(4) Applicant must agree to indemnify, defend, and hold harmless the city, its officers, employees and agents, and department, for any and all claims arising from applicant's acts or omissions. Additionally, the city and department shall be added as additional insureds on the policies, and the coverage shall contain no special limitation on the scope of protection afforded to the city and department.

(5) The insurance company shall be of sufficient assets, with an agent in the State of Texas upon whom service of the process may be made, and shall be approved by the city attorney. Every insurance policy and certificate of insurance must contain a provision or an endorsement requiring that the policy will not be cancelled, suspended, voided, or reduced until at least 30 days prior written notice has been given to the city via certified mail, return receipt requested. If the policy does not provide coverage for "any auto," then a schedule of the covered autos is required to be submitted and filed with the city secretary. Only those covered vehicles will be permitted to operate within the city.

(6) If the city attorney determines that the insurance coverages required in subsection (a) of this section become so impaired so as to require new and additional insurance, the city attorney shall require such additional insurance in such company as he may feel is necessary to ensure faithful performance by the operator of ambulances, his or her agents, servants, and employees.

(7) If the insurance policy is cancelled and no insurance policy is filed by the owner or ambulance operators before the cancellation, the permit to operate ambulances granted to such person shall be immediately and automatically revoked.

(c) *Taxes.* It shall be the duty of every non-emergency medical transfer services provider to pay all ad valorem taxes assessed by the city against such vehicle and all other personal and real property used in such business. The failure to pay such ad valorem taxes before they become 90 days delinquent shall result in revocation of the business license issued in accordance with this ordinance.

(d) *Requirements for business location.* If the business location of the ambulance service, firm or organization is located within the city limits, the building must be in compliance with all city ordinances, state and federal laws. Pursuant to this specific ordinance, no such ambulance service, firm or organization shall operate as its main place of business or a storage supply facility in a private residence. The city manager or designee has the right to inspect such locations as often as deemed necessary to ensure compliance with all provisions of this ordinance. The refusal of any ambulance operator with a business office located within the city limits to allow the city manager or designee, or city appointee to inspect such premises shall be considered a violation of this ordinance.

(e) *Staffing.* No transfer ambulance vehicle shall ever be operated upon the streets, highways or other public places of the city unless such vehicle is operated by at least two validly permitted ambulance attendants, one of whom must possess a current emergency care attendant certificate as required by the state, and the other attendant must be certified by the state as at least an EMT-basic.

(f) *Posting of fee schedule.* All transfer ambulance vehicles shall have a current usual and customary fee schedule conspicuously posted in the patient's compartment.

(g) *Applicability.* The requirements listed in this section are not applicable to the department's emergency ambulance service.

Sec. 5. Ambulance permits.

(a) In addition to obtaining a business license, it shall be unlawful for any person to drive or operate any ambulance vehicle upon the public streets, alleys or other public ways of the city unless such vehicle shall have lawfully affixed thereto a valid ambulance vehicle permit issued pursuant to the terms of this ordinance for all vehicles utilized, deployed, housed or stationed in the city.

(b) An application for an ambulance permit to operate an ambulance on the public streets of the city for the purpose of providing non-emergency transfer ambulance service within the city shall be made by the business owner thereof, or an agent authorized in writing by such owner to make such application, on forms prepared by the city manager or city employee designee.

(c) Before approving a permit, the city manager, or designee, shall inspect the ambulance to be permitted under this ordinance to determine if such vehicle meets the following minimum standards:

(1) Each vehicle shall be equipped according to the Texas DSHS equipment standards, and as determined by the ambulance service medical director;

(2) Each vehicle shall be free from dirt or rubbish and shall be otherwise clean and sanitary;

(3) Each vehicle shall meet the general standards and requirements of this ordinance;

(4) Each vehicle shall have the company name displayed on each side of the vehicle and on the rear; and

(5) Each vehicle shall be inspected each year by a person authorized to conduct vehicle safety inspections by the State of Texas.

(d) The city manager or city employee designee shall inspect such ambulances no less than once each year. At no time shall any ambulance that is found to be unsafe by the city manager, or city employee designee, or the police department be operated on the streets of the city. Nothing in this section however shall prevent the city manager, or city employee designee, from inspecting any ambulance at any time. If the inspector finds that any ambulance is in defective condition, the city manager, or city employee designee, shall order the use of the ambulance discontinued until the ambulance is re-inspected and approved. In the event an ambulance or vehicle fails to pass inspection, the city manager or city employee designee shall notify the ambulance operator to correct the defects noted in the inspection and, after such notification, the city manager or city employee designee shall cause such ambulance to be re-inspected within 48 hours, or two working days should the inspection take place on a weekend. If upon such re-inspection the defects noted in the original inspection have not been corrected, the permit decal shall be removed from the ambulance or vehicle and shall only be replaced upon such ambulance or vehicle after the defects have been corrected. A \$100.00 fee shall be assessed for re-inspection where the decal has been removed subject to this subsection.

(e) At no time shall a person operating a permitted non-emergency transfer ambulance in the city, respond to or from a direct call for an emergency medical service, operate such ambulance under emergency conditions, using emergency equipment, unless otherwise permitted by this ordinance and even then not until notifying the police dispatcher serving the city. The operator of the ambulance shall notify dispatch of the reason for emergency traffic, where responding from and destination.

(f) *Applicability.* The permit requirements listed in this section are not applicable to the department's emergency ambulance vehicles.

Sec. 6. Issuance of licenses and permits.

(a) The city manager, or city employee designee, shall issue to each applicant a license to operate a non-emergency transfer ambulance service upon determination that all requirements of this ordinance and all applicable state and federal statutes and regulations have been satisfied.

(b) The city manager, or city employee designee, shall issue to each applicant a permit for each vehicle upon the applicant's filing of written proof of insurance as required in this division, upon ensuring that all city taxes on each vehicle and all other personal and real property used in such business have been paid and upon determination that all requirements of this ordinance and all applicable state and federal statutes and regulations have been satisfied.

(c) Licenses and permits shall be issued for a 12-month period. Such period shall run from January 1 to December 31 of each year. Any new license or permit issued during the year shall begin on the date of issuance and shall end on December 31 of that year. Permits shall state the period for which the permit is issued, the name of the owner, the make of the vehicle(s), the vehicle identification number(s), and the current license number(s).

Sec. 7. Renewal.

(a) An application for renewal of an existing license or permit shall be filed on or before November 15 for the renewal period covering the following calendar year. The application process shall be the same as specified in this ordinance for initial licenses and permits.

(b) The city manager or city employee designee shall renew a medical transfer service license for which it has received a renewal application upon the determination that all requirements of this ordinance and all applicable state and federal statutes and regulations have been satisfied.

(c) The city manager or city employee designee shall renew a non-emergency medical transfer service permit for each ambulance for which it has received a renewal application upon the applicant's filing of written proof of insurance as required in this ordinance, upon ensuring that all city taxes on each vehicle and on all other personal and real property used in such business have been paid and upon determination that all requirements of this ordinance and all applicable state and federal statutes and regulations have been satisfied.

(d) If a license or permit has been suspended during the permit year, renewal of such license or permit will be reviewed by the December of the same year. The renewal of such license or permit shall be denied if the city manager or city employee designee determines that the health, general public safety and welfare of the citizens of the city would not be protected by renewal of said license or permit.

Sec. 8. Transferability.

A license or permit issued under this ordinance shall be personal to the licensee/permittee and shall not be transferable.

Sec. 9. Alterations of terms by city council.

The city council expressly reserves the right to modify, amend, change, or eliminate any of the provisions of any permit issued under this ordinance, during the life of the license or permit, to:

- (1) Eliminate or delegate any conditions that might prove obsolete or impractical; or
- (2) Impose any additional conditions upon any owner as may be just and reasonable, and which are deemed necessary for the purpose of promoting adequate, efficient, and safe ambulance to the public.

Sec. 10. Revocation.

(a) In addition to the penalties provided for violations of this ordinance, a non-emergency medical transfer service provider or any of its officers, agents and/or employees who operates or allows drivers to operate or drive any vehicle while not properly permitted, without the proper required insurance, or while intoxicated/incapacitated, is subject to immediate suspension of its non-emergency medical transfer service license to operate within the city limits by the city manager or city employee designee.

(b) Any other violation of this ordinance may subject the non-emergency medical transfer service provider to suspension or revocation of its emergency medical transfer service license, after notice and a hearing. Not less than ten days before any revocation or suspension (for other than operating a vehicle while not properly licensed, without proper insurance, or while intoxicated/incapacitated), the owner shall be given written notice, by either personal delivery or certified mail to the permittee's address as shown on the permit application, and an opportunity to be heard before the city manager or city employee designee as to why the permit should not be revoked or suspended.

(c) If the city manager's or city employee designee's decision is not acceptable to licensee or permittee, the licensee or permittee may, within ten days of that decision, file an appeal in writing with the mayor. Such a written appeal shall set forth the specific grounds therefor. The mayor shall notify the appellant within ten days after the receipt of appeal as to the time and place of the hearing, which shall be within 30 days of receipt of such appeal. The determination of the mayor on any appeal pursuant to this ordinance shall be final.

(d) Upon suspension or revocation of non-emergency medical transfer service business license, such non-emergency medical transfer service shall cease operations in the city and no person shall permit such non-emergency medical transfer service to continue such operations.

(e) Upon suspension or revocation of an ambulance permit, such non-emergency medical transfer service shall cease operations in the city with that vehicle, and no person shall permit such vehicle to continue to provide non-emergency medical transfer service within the city.

(f) Revocation or suspension of a business license shall automatically revoke or suspend any and all ambulance permits associated with that license. The ambulances may not be operated under another licensed non-emergency medical transfer service without being re-permitted.

Sec. 11. Emergency medical services committee.

(a) With the concurrence of the city council, the mayor may create, and appoint members to, an emergency medical services committee which shall, if appointed, administer the provisions of this ordinance as herein provided. The emergency medical services committee may promulgate rules and regulations governing emergency and non-emergency medical services and transportation of patients to ensure the proper administration of this ordinance. The rules and regulations may include provisions for hearings on actions of suspension and revocation under this ordinance, due notice thereof to interested persons and adequate opportunity for due process, and may include recommendations for standards of care, additional regulation, and ordinance changes to meet the changing needs of the system.

(b) The emergency medical services committee shall be responsible for continuing study of and seeking recommendations concerning the emergency and non-emergency medical services in the city. The emergency medical services committee shall consist of at least five members composed as follows:

(1) Two members who represent the health care professions or emergency medical services and who are professionally recommended as being knowledgeable in the field of emergency medicine, one of whom shall be a licensed member of the medical profession;

(2) Two members of the city staff or the department; and

- (3) One member who is a representative of the community at large.
- (c) Members of the board shall be appointed for one-year terms expiring on September 30 and shall serve until a successor has been appointed.”

Sec. 12. Offenses and penalties.

- a. No person shall operate, participate in the operation of, cause to be operated, or participate in causing to be operated any vehicle in violation of any provision of this ordinance.
- b. No person shall participate in any way in violating any provision of this ordinance.
- c. Any violation of any portion of this ordinance shall be a misdemeanor punishable upon conviction by a fine not to exceed \$2,000. Each day or portion of a day that a violation continues, occurs, or recurs shall be a separate offense.

Sec. 13. Civil remedies and penalties.

Any and/or all of the following civil remedies may be imposed for violation of any provision of this Ordinance: injunctive relief, declaratory relief, monetary damages, attorney’s fees and all other expenses incurred in enforcing the City’s rights or the violator’s obligations or liabilities, costs of court, interest as provided by law, and all other remedies at law or in equity.

Sec. 14. Cumulative obligations and remedies/no election of obligations or remedies.

All obligations, prohibitions, and offenses under this ordinance or under any other applicable laws are cumulative. No such obligations, prohibitions, or offenses shall be construed to limit any other such obligations, prohibitions, or offenses.

- (a) All remedies and penalties in favor of the City or against any person other than the City under this ordinance, or under any other applicable laws are cumulative. The pursuit or receipt by the City of any one or more penalties or remedies shall not constitute an election of remedies, and shall not prevent the City from pursuing and receiving any and all other remedies and penalties of any nature whatsoever.
- (b) Without the limiting the generality of the foregoing, the City may pursue a criminal prosecution hereunder without pursuing civil remedies for a violation hereof; the City may pursue civil remedies without pursuing a criminal prosecution; or the City may do both.

Sec. 15. Nonwaiver of immunity.

Nothing herein, in any document issued pursuant hereto, or in any action, omission, or condition pursuant hereto shall ever be construed as a full or partial waiver of governmental immunity, official immunity, or any other immunity of the City.

Sec. 16. Nonwaiver by nonenforcement.

The failure or omission of the City, upon one or more occasions, to enforce any right, obligation, or remedy hereunder, under any permit issued hereunder, or under any other applicable laws shall never be construed as a waiver of the City’s right to strictly enforce such right, obligation, or remedy, and the City may resume such strict enforcement without advance notice.

Sec. 17. Non-liability of city.

Neither the City of Iowa Colony, nor any of its agents, officers, attorneys, or employees shall have any liability of any nature to any person other than the City of Iowa Colony, for any act, omission, or condition in any way directly or indirectly related to the subject matter of this ordinance.

Sec. 18. Conflicts in terms.

In the event of any conflict in the terms of this ordinance, or between the terms of this ordinance and any other ordinance, the more restrictive provision shall govern and control.

Sec. 19. Severance clause.

If any portion, of any size, of this ordinance is for any reason invalid, then the remainder of this ordinance shall remain valid.

Sec. 20. Effective date.

This ordinance shall be effective as of the date of its passage and approval.

PASSED AND ADOPTED this 16th day of September, 2019.



Michael Byrum-Bratsen, Mayor
City of Iowa Colony, Texas

ATTEST:


Kayleen Rosser, City Secretary