

ORDINANCE NO. 11-O

AN ORDINANCE AMENDING CHAPTER 8½, EMERGENCY MEDICAL SERVICES, OF THE CODE OF ORDINANCES, CITY OF ALVIN, TEXAS, ESTABLISHING REGULATIONS FOR EMERGENCY AMBULANCE SERVICES AND NON-EMERGENCY TRANSFER AMBULANCE SERVICES WITHIN THE CITY, PROVIDING FOR THE PERMITTING PROCESS FOR A TRANSFER AMBULANCE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, Chapter 773, Texas Health and Safety Code, as amended, expressly authorizes a municipality to establish standards for ambulance service; and

WHEREAS, the City Council of the City of Alvin, Texas, has determined the need for a safe, efficient and affordable ambulance services within the city warrants a distinction between emergency ambulance service and ambulance service that is not responding to an emergency; and

WHEREAS, licensing and permitting for other than emergency ambulance service, with the exceptions hereinafter set forth, as may from time to time be warranted by public necessity and convenience; and

WHEREAS, the City Council of the City of Alvin, Texas has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Alvin (the "City") that Chapter 8½, Emergency Ambulance Services, should be amended to establish regulations for the provision of emergency ambulance service and non-emergency transfer ambulance service within the City of Alvin as set forth below; **NOW, THEREFORE**,

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

Section 1. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. The Code of Ordinances of the City of Alvin, Texas, is hereby amended by amending Chapter 8½, Emergency Ambulance Services, to read in its entirety as follows:

“Chapter 8½

EMERGENCY AMBULANCE SERVICES

Sec. 8½-1. Definitions.

For the purpose of this chapter, certain words and phrases are defined as follows:

Ambulance: A motor vehicle used, designed or redesigned, and equipped for the primary purpose of the transportation of sick or injured persons.

Ambulance operator: The person, partnership or corporation holding a city ambulance permit.

Ambulance service: A trip made by an ambulance to transport a sick or injured person from place to place under other than emergency circumstances.

Director means the Director of Emergency Medical Services.

Direct call: A request for ambulance service made by telephone or other means directly to an ambulance operator, his agents or employees.

Emergency ambulance: An ambulance used, designed or redesigned, and equipped for the primary purpose of transporting sick or injured persons under emergency circumstances, and the rendering of first aid or the performance of rescue work, or both, under such circumstances.

Emergency ambulance service: A trip made by an emergency ambulance under emergency circumstances to the place of emergency, performance of any necessary rescue operations, rendering of any necessary first aid assistance and the trip to the hospital or other place for medical attention. An ambulance is being operated in emergency ambulance service if all or any part of the above-described trip to the place of emergency and any subsequent trip to the hospital is made on the streets within the corporate limits of the City of Alvin. An emergency ambulance shall be considered on emergency ambulance service when it is responding to a call for emergency assistance even though, upon arrival at the place of emergency, it is found no further emergency ambulance assistance is required or when it is responding to a call for routine ambulance service and during such service emergency circumstances develop (whether because the call for assistance was falsely made or otherwise).

Emergency circumstance: 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.

Emergency medical service volunteer: An individual who provides emergency medical treatment, emergency rescue service or emergency transportation of the sick and injured as part of the city emergency medical service and who receives no compensation in excess of reimbursement for expenses.

Nonresident: Any person not residing within the corporate limits of the City of Alvin, Texas.

Person: The term "person" includes "partnership," "firm," "association," and "corporation."

T.D.S.H.S.: means the Texas Department of State Health Services.

Transfer ambulance: shall mean any motor vehicle constructed, equipped and used for transferring the injured or sick under circumstances which do not constitute an emergency and which have not been represented as an emergency, to locations other than the emergency facilities of a hospital or clinic.

Sec. 8½-2. City emergency medical service—Establishment, maintenance and operation generally.

There is hereby established a city emergency medical service for rendering emergency care and/or transporting sick or injured persons within the City of Alvin, Texas. Such service shall be maintained and operated as a department of the city and as an enterprise fund within the fund group of accounts maintained in accordance with G.F.O.A. standards.

Sec. 8½-3. Personnel required during operation of emergency ambulance; certificate of proficiency as a qualified emergency care attendant or higher proficiency required.

(a) It shall be unlawful to operate or drive or cause to be operated or driven an emergency ambulance on a public street of the city when furnishing emergency ambulance service, including emergency ambulances operated by the emergency medical service department of the City of Alvin, unless there are available to such emergency ambulance on each trip at least two (2) persons, both of whom are the holders of valid certificates of proficiency as qualified emergency care attendants issued by the T.D.S.H.S.

(b) Qualifications for a certificate of proficiency as a qualified emergency care attendant shall be those required by the T.D.S.H.S., as they currently exist and as hereafter amended.

Sec. 8½-4. - Licensing and operating condition requirements for emergency ambulances.

No emergency ambulance shall be operated on the public streets of the city unless it is free of structural defects and unless it has no serious impairment of any safety feature resulting from an accident or otherwise. No emergency ambulance shall be operated upon the streets of the city for the purpose of furnishing emergency ambulance service unless and until such ambulance has been duly licensed in accordance with V.T.C.A., Health and Safety Code Ch. 773.

Sec. 8½-5. Safety and first aid equipment required.

No ambulance shall be operated upon the streets of the city for the purpose of furnishing ambulance service unless such ambulance is equipped with the essential equipment for ambulances, as set forth by any local, state or federal regulations.

Sec. 8½-6. Speed limitation.

(a) Ambulance and emergency vehicles shall at all times be operated at a reasonable and prudent speed, consistent with the circumstances of the response in progress, upon the streets of the City of Alvin and shall at no time exceed a maximum speed consistent with the circumstances and with safety to passengers, pedestrians and occupants of other vehicles.

(b) However, it shall be unlawful to operate or drive any emergency ambulance on the streets of the city in emergency ambulance service in excess of ten (10) miles per hour while entering and passing through an intersection controlled by a stop sign or while entering and passing through an intersection controlled by any traffic signal which, at the time, indicates stop by displaying a red light, and unless the operator thereof slows down as necessary for safety upon approaching the stop sign or signal and only then proceeds cautiously past such stop sign or signal.

Sec. 8½-7. Lawful procedures of persons operating nonemergency ambulances.

(a) The operation of emergency ambulances on the streets of the city for the furnishing of emergency ambulance service is hereby declared to be primarily a governmental function of the City of Alvin to be performed in accordance with the terms of this chapter. It shall be unlawful for any person, other than members of the emergency medical service department of the city, while driving emergency ambulances operated as set forth herein, to furnish or to attempt to furnish emergency ambulance service or to operate or drive or cause to be operated or driven any ambulance on the streets of the city for the purpose of furnishing emergency ambulance service, except as provided herein:

(1) It shall not be unlawful for any person to operate an ambulance in emergency ambulance service to a hospital within the City of Alvin when such person at the time has an established place of business at a permanent address outside the corporate limits of the city and when:

- a. The place of emergency at which the sick or injured person or persons were picked up by such ambulance is outside the corporate limits of the city;
- b. The ambulance performing such emergency ambulance service is, at the time, duly licensed and operated in accordance with V.T.C.A., Health and Safety Code Ch. 773; and
- c. The driver of such ambulance complies with all speed and other traffic regulations for emergency ambulances set forth herein.

(2) It shall not be unlawful for any person to operate an ambulance in emergency ambulance service when, by reason of city emergency medical service department ambulances not being available, the emergency medical service department of the

City of Alvin calls upon such ambulance operator to furnish standby or back-up emergency ambulance service for the city.

(b) In each instance set out in subsections (1) and (2) above, the driver or operator of such ambulance shall notify the emergency medical service department dispatcher of the conditions requiring the operation of their vehicle in emergency ambulance service, the location from which they are proceeding, and the location to which they are proceeding under emergency ambulance service. Each ambulance being operated under subsection (1) above shall comply with the requirements of this chapter regarding emergency ambulances insofar as traffic safety is concerned. Each ambulance being operated under the provisions of subsection (2) above shall comply with all requirements of this chapter regarding emergency ambulances of every nature. Upon arriving at their destination, the ambulance driver or ambulance operator will again notify the emergency medical service department dispatcher that they have arrived and are no longer in emergency ambulance service. When the driver or operator of an ambulance is responding to a direct call for ambulance service, either under emergency conditions or otherwise, they shall inform the emergency medical service department dispatcher of the location of such call and such information as they may have concerning the circumstances surrounding the request for service, and if the emergency medical service department dispatcher reports that a city ambulance is either en route to the same location or has arrived there and instructs such ambulance driver or operator not to respond to such call, it shall be unlawful for such driver or operator to so respond when instructed not to do so by the emergency medical service department dispatcher.

Sec. 8½-8. Transfer ambulance service.

Nothing herein shall prohibit any person owning an ambulance duly licensed and operated in accordance with V.T.C.A., Health and Safety Code Ch. 773, from operating such ambulance on the public streets for the purpose of furnishing transfer ambulance service only; provided, however, such person shall secure a permit in compliance with section 8½-9 herein. The driver of any such ambulance shall comply with all of the traffic laws of the State of Texas and ordinances of the City of Alvin, including this chapter, in furnishing such transfer ambulance service. The operator thereof shall not permit such ambulance to be used for emergency ambulance service unless all requirements of this chapter regarding emergency ambulance service have been complied with.

Sec. 8½-9. Transfer ambulance service operator's permit and fees, insurance required.

(a) Any person operating a transfer ambulance service upon the streets of the city, other than an emergency ambulance as provided for in section 8½-3 herein, must secure a permit therefor from the Director, which permit shall be valid for the calendar year in which issued;

(b) Each applicant for a permit shall submit an application annually on forms to be prescribed by the Director;

(c) The fees for permits required by this section shall be contained in Chapter 28, Comprehensive Fee Ordinance. Such fees must be submitted at the time of the application, are non-refundable, and shall not be pro-rated as to time.

(d) Upon payment of the fees prescribed above, and finding that the applicant has complied with all provision of this Chapter and any other local, state or federal regulations, the Director shall be authorized to issue an initial permit and/or renewal within thirty (30) calendar days after receipt of an administratively complete application.

(e) Such applicant shall provide evidence to the department that he has in full force for such calendar year a public liability insurance policy and a property damage insurance policy on each ambulance, such insurance policies to be issued by an insurance company licensed to do business in the state or by a surplus line insurance company which is not legally prohibited from doing business in the state. Such policies shall provide liability insurance in the amount of not less than five hundred thousand dollars (\$500,000.00) for personal injury in any one accident and not less than two hundred fifty thousand dollars (\$250,000.00) for personal injury to any one person, and not less than one hundred thousand dollars (\$100,000.00) for property damage arising out of any one accident. Such insurance policies shall not contain a passenger liability exclusion. Each policy shall contain a provision obligating the insurer to give to the city written notice of cancellation not less than ten (10) days prior to the date of any cancellation.

(f) All transfer ambulances shall be operated in accordance with T.D.S.H.S. regulations.

Sec. 8½-10. Reporting requirements.

The holder of a permit for transfer service shall submit a report to the Director for and of the following events, setting forth all circumstances surrounding the event, within twenty-four (24) hours following the event:

- (1) that a non-emergency became an emergency situation suddenly and without warning.
- (2) that a death occurred during the course of a non-emergency transfer.
- (3) that a permitted ambulance became involved in a traffic accident.

Sec. 8½-11. Transfer.

The sale, assignment or other transfer of any permit issued pursuant to the provisions of this Chapter is strictly prohibited, and shall not be valid for any purpose.

Sec. 8½-12. Expiration.

Each permit issued pursuant to this chapter shall expire on January 31 of each calendar year, unless revoked or terminated at an earlier date.

Sec. 8½-13. Revocation, suspension or denial.

In the event a permittee violates or fails to meet any term or provision of this Chapter, the Director shall be authorized to revoke, deny or cause the suspension of any transfer permit. The Director shall submit a certified, return receipt requested letter to the offending permittee, with a copy to the City Manager.

Sec. 8½-14. Appeal.

If the Director revokes, denies or suspends any transfer permit, the permittee or applicant shall have the right to appeal within ten (10) calendar days to the City Council. The appeal shall be delivered, in writing, to the City Clerk, stating the applicant's position and supporting facts. The Council will schedule a hearing within thirty (30) days to sustain or reverse the decision of the Director.

If the permittee does not submit an appeal to the Council within the time permitted, the Director's decision shall become final.

Sec. 8½-15. Rendering of first aid and assistance required; refusal to transport sick or injured persons unlawful; solicitation of business prohibited.

(a) It shall be unlawful for the driver or the attendant of any emergency ambulance to fail to render first aid and assistance to the sick or injured at the place of emergency. It shall be unlawful for an emergency ambulance operator, the holder of a city emergency ambulance driver's permit, or the holder of a certificate of proficiency as a qualified emergency care attendant to refuse to carry or transport any sick or injured person from the place of an emergency or the place of a direct call to which he has responded, and the circumstances that such person is or appears to be indigent and unable to pay the cost of service shall not serve as an excuse from this requirement.

(b) It shall be unlawful for any person, while operating or accompanying an emergency ambulance on the public streets or easements of the city, to solicit the business of transporting the sick or injured.

Sec. 8½-16. Interference with ambulance operators and other officials proceeding on response call.

In accordance with Section 38.15 of the Texas Penal Code, it shall be unlawful for any person to interfere with or in any manner obstruct any emergency medical service department personnel or other city official proceeding to the scene or reported scene of any accident or emergency call or to make it difficult or dangerous for any emergency medical service department personnel or other city official to proceed to the scene of an accident or emergency call.

Sec. 8½-17. Interference with emergency medical service department apparatus and equipment generally.

In accordance with Section 545.407 of the Texas Transportation Code, it shall be unlawful for any person to deface, destroy, injure or molest any attached or unattached apparatus or equipment belonging to the city or to injure or deface any building or structure used to house or protect such apparatus and equipment or to interfere or meddle with any item of equipment used in the performance of operations by the emergency medical services department.

Sec. 8½-18. Fees for service; refunds; billing and collection.

(a) In order to partially defray the costs incurred by the city in providing ambulance service, the following fees are hereby established to be collected for the provision of emergency ambulance service by the city:

- (1) A user fee in the amount set forth in Chapter 28 of this Code, payable by or on behalf of the person served upon billing by the city, for any transport of a resident citizen of the city via the emergency medical service department ambulance system. Every resident citizen transported by the emergency medical service department shall owe this fee; provided, however, that the city shall forgive that portion of the fee not covered by a third-party insurance carrier if the resident citizen has made the voluntary and elective contribution set forth in Chapter 28 of this Code to the emergency medical service department contained on the resident's utility bill for the billing period immediately preceding the use of the emergency ambulance service.

In lieu of the payment of the monthly contribution on the resident's utility bill, a resident citizen of the city may contribute an annual lump sum payment as set forth in Chapter 28 of this Code.

- (2) The user fee set forth in Chapter 28 of this Code payable by or on behalf of the person served upon billing by the city, for any transport of nonresident citizen via the emergency medical service department ambulance system. Every nonresident citizen transported by the emergency medical service department shall owe this fee; provided, however, that the city shall forgive that portion of the fee not covered by a third-party insurance carrier if the nonresident citizen has made the voluntary and elective contribution set forth in Chapter 28 of this Code to the emergency medical service department within the twelve (12) months immediately preceding the use of the emergency ambulance service.
- (3) An apartment complex or mobile home park serviced by a master meter may pay the monthly voluntary and elective contribution set forth in Chapter 28 of this Code for each occupied unit which shall be determined on a quarterly basis as provided for

water utility purposes in section 25-13.1 of this Code. In such event, all the residents of that apartment complex or mobile home park shall be deemed covered for emergency medical ambulance service and the city shall forgive that portion of the fee not covered by a third-party insurance carrier upon proof of residence within such apartment complex or manufactured home park. This subparagraph applies to apartment complexes and manufactured home parks within the City of Alvin.

- (4) An itemized charge for all disposable supplies used, the rate to be based on reasonable and customary charges.
- (5) For residents within the city limits and nonresident citizens outside the city limits, a one-way mileage fee in an amount set forth in Chapter 28 of this Code for each mile of transport. Such fee shall be imposed only when a patient is being transported in the ambulance. Fees shall be prorated for fractions of a mile.
- (6) A non-transport fee in an amount set forth in Chapter 28 of this Code, payable by or on behalf of the person for whom ambulance service was sought but who was subsequently not transported, and payable upon billing by the city. Such non-transport fee shall not be charged in the instance where the ambulance call was initiated by or the ambulance dispatched based upon information received from a disassociated third party not involved with the potential patient or the family of same. The non-transport fee shall be payable according to the terms set forth in subsections (1) through (3) above.
- (7) Membership of the emergency medical service department and fire department of the city, and members of their immediate families, shall be exempt from all fee requirements contained in this section. For the purpose of this subsection "immediate family" shall mean the spouse, parent(s) and legally dependent children of the Alvin E.M.S. or fire department member.
- (8) The city may contract with recognizable entities outside the city limits to provide emergency medical service under such terms as may be defined by the city council and by the contracting entity.

(b) The emergency medical service department shall submit a record of each instance in which emergency ambulance transport service is rendered to the city, and the city will be responsible for the billing and collection of the applicable fee. No provision in this section shall be construed to authorize the emergency medical service department, under any circumstances, to refuse emergency ambulance assistance to any person upon the grounds that such person is indigent or unable to pay for such service.

Sec. 8½-19. - Uncollectible transports.

(a) There is hereby created a list of ambulance accounts to be entitled "Uncollectible Transports." The director of finance of the city shall have the power to place ambulance bills on the uncollectible transports list if he/she determines such ambulance bills to be uncollectible.

(b) An uncollectible transport shall be defined as:

- (1) Emergency ambulance service provided a patient whose name and/or address is unknown, or upon whom there is otherwise insufficient information to locate the patient, or a patient using a false name and/or address, or a patient who is a minor and whose parents or next of kin are unknown, or there is otherwise insufficient information to locate the parents or next of kin.
- (2) Emergency ambulance service provided at least six (6) months previously and upon which a diligent collection effort has been made.

(c) Nothing herein shall be construed as prohibiting the turning over of uncollectible accounts to a collection agency or organization. Collection efforts shall be terminated upon reasonable proof that the person is indigent.

Sec. 8½-20. - Penalty for violations.

Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine in accordance with the general penalty section 1-5 of the Code of Ordinances. In addition, the city attorney is hereby authorized to file suit in any court of competent jurisdiction to enjoin any person from violating or causing to be violated any of the provisions of this chapter.

Section 3. Severability. Should any section or part of this ordinance be held unconstitutional, illegal or invalid or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 4. Penalty. Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine in accordance with the general penalty section 1-5 of the Code of Ordinances.

Section 5. Publication. The City Clerk of the City of Alvin is hereby directed to publish this ordinance or its caption and penalty clause in one issue of the official City newspaper as required by the Charter of the City of Alvin, Texas.

Section 6. Savings Clause. All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting ambulance regulations within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 7. Effective Date. This Ordinance shall take effect immediately from and after its passage on second reading and its subsequent publication in accordance with the provisions of *Chapt. 52, Tex. Loc. Gov't. Code* and the *City of Alvin Charter*.

Section 8. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

PASSED AND APPROVED on first reading this 14 day of April, 2011.

PASSED AND APPROVED on second and final reading this 5 day of May, 2011.

ATTEST:

CITY OF ALVIN, TEXAS

By: Thomas W. Peebles
Thomas W. Peebles, City Clerk

By: Gary Appelt
Gary Appelt, Mayor