

ORDINANCE NO. 1220-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING CHAPTER 9 ½, *EMERGENCY MEDICAL SERVICES*, OF THE CITY OF PEARLAND CODE OF ORDINANCES, FOR THE PURPOSE OF UPDATING THE ORDINANCES RELATIVE TO EMERGENCY MEDICAL SERVICES; PROVIDING A PENALTY FOR VIOLATION; HAVING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND A REPEALER CLAUSE; PROVIDING FOR PUBLICATION, CODIFICATION, AND AN EFFECTIVE DATE.

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

Section 1. That Chapter 9 ½, *Emergency Medical Services*, of the City of Pearland Code of Ordinances, is hereby AMENDED to read as follows:

“ARTICLE I. IN GENERAL

Sec. 9 ½-1. Definitions.

For the purposes 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, whether functioning as a basic life support, advanced life support, or mobile intensive care unit service level as provided by state law.

City: The City of Pearland, Texas.

City limits: The area in the city within the corporate city limits.

Department: The city emergency medical service employees and members thereof.

DSHS: The Texas Department of State Health Services as presently constituted, or any successor agency.

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

Chief EMS Officer: The chief of the City department that provides Emergency Medical Services or his/her designee.

Emergency ambulance: 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.

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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.

ETJ: The City's extra-territorial jurisdiction.

Medical transfer service: A response made by an ambulance for the transportation of individuals to or from a medical facility, a nursing home, a assisted living facility, or residence under circumstances, which do not constitute an emergency.

Medical transfer service permit: A certificate of authorization issued by the city to the owner allowing such owner to operate an ambulance for medical transfer services within the city limits.

Medical transfer service provider: A person providing medical transfer services and holding a valid medical transfer services permit.

Sec. 9 ½-2. Interference with department personnel, equipment.

It shall be unlawful for any person to physically obstruct any department personnel proceeding to the scene or reported scene of any accident or emergency call, or to physically obstruct any department personnel in the course of treating the sick or injured at any such scene. It shall be unlawful for any person to fail or refuse to surrender any sick or injured person to the care of any department personnel at the scene of any accident or emergency call. It shall be unlawful for any person to damage, destroy or deface any attached or unattached apparatus or equipment belonging to the department or any structure used to house or protect such apparatus or equipment.

Sec. 9 ½-3. Penalty.

Any person, firm or corporation who violates or fails to comply with the requirements or provisions of this chapter shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be punished by assessment of a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00), and each day such violation or failure to comply is allowed to exist shall constitute a separate and distinct offense. In addition, the City Attorney is authorized to file suit in any court of competent jurisdiction to enjoin any person from violating or causing to be violated any of the sections of this article.

Secs. 9 ½-4—9 ½-10. Reserved.

ARTICLE II. EMERGENCY MEDICAL SERVICES DEPARTMENT

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Sec. 9 ½-11. Established; 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 and the city's extraterritorial jurisdiction. Such service shall be maintained and operated as a department of the city.

Sec. 9 ½-12. Supervision and control.

The operation of such city emergency medical service shall be under the supervision and control of the Chief EMS Officer.

Sec. 9 ½-13. Medical director; authority.

The medical director shall be a physician, licensed to practice in the state of Texas, and have control over all medical supervision, as set forth in Texas Occupations Code Chapter 157. The medical director shall be appointed or removed at the recommendation of the City Manager with approval of the City Council. The medical director shall receive such compensation as may be fixed by City Council.

Sec. 9 ½-14. Chief of emergency medical services.

The Chief EMS Officer shall be under the direct supervision of the City Manager. The Chief EMS Officer shall make monthly reports to the City Manager as may be required. The Chief EMS Officer shall be responsible for the administration of the policies, rules and regulations established by city ordinances and state law.

Sec. 9 ½-15. Departmental policies; rules and regulations.

The Chief EMS Officer shall prescribe such policies, rules and regulations for the conduct of the department, as he or she may deem necessary or advisable, subject to the approval of City Manager. Upon the City Manager's approval, all such policies, rules and regulations shall be binding on all employees of the department.

Secs. 9 ½-16—9 ½-22. Reserved.

ARTICLE III. AMBULANCES

Sec. 9 ½-23. Personnel required during operation of emergency ambulance.

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, unless there are available to such emergency ambulance on each trip the minimum staffing requirements as set out in Section 157.67 (a) of

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Emergency Medical Services rules adopted by the DSHS under Section 773.050 of the Texas Emergency Medical Services Act, Texas Health and Safety Code Chapter 773.

Sec. 9 ½-24. Licensing and operating condition requirements for emergency ambulances.

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 a valid permit issued by the DSHS.

Sec. 9 ½-25. 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 as set out in Section 157.67 of Emergency Medical Services Rules adopted by the DSHS under Section 773.050 of the Texas Emergency Medical Services Act, Texas Health and Safety Code Chapter 773.

Sec. 9 ½-26. Operation of emergency ambulances, generally.

The operation of any emergency ambulance or emergency ambulance service within the territorial limits of the City is hereby declared to be a governmental function of the City, to be performed in accordance with the terms and provisions of this chapter.

Sec. 9 ½-27. Certain operations unlawful; exceptions.

It shall be unlawful for any person, other than a member of the department, while driving an emergency ambulance as defined herein, to furnish or attempt to furnish emergency ambulance service, or to drive or operate, or to cause to be driven or operated, any ambulance within the territorial limits of the City for the purpose of furnishing emergency ambulance service, except as otherwise provided herein.

- (a) A person may operate an ambulance in emergency ambulance service to a hospital when such person at the time has an established place of business at a permanent address outside the city and when:
 - (1) The place of emergency at which the sick or injured patient was picked up by such ambulance is outside the City; and
 - (2) The ambulance performing such emergency ambulance service is, at the time of such performance, duly permitted and being operated in accordance with the Texas Emergency Medical Services Act, Texas Health and Safety Code Chapter 773.
- (b) A person may operate an ambulance in emergency ambulance service when, by reason of department ambulances not being available, the department calls upon

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such person to furnish standby or backup emergency ambulance service within the city.

- (c) A person may operate an ambulance in emergency ambulance service when, in the course of a non-emergency transport allowed in (a) above, a medical emergency arises in which the individual being transported requires emergency medical service.

In each instance set out in subsections (a) through (c) above, the driver or operator of such ambulance shall notify the police dispatcher of the conditions requiring the operation of his vehicle in emergency ambulance service, the location from which he is proceeding and the location to which he is proceeding under emergency ambulance service. Each ambulance being operated under the provisions of this section shall comply with all general requirements of this chapter regarding emergency ambulances of every nature. Upon arriving at his destination, the ambulance driver or ambulance operator will again notify the dispatcher that he has arrived and is 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, he shall inform the police department dispatcher of the location of such call and such information as he may have concerning the circumstances surrounding the request for service, and if the police 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 police dispatcher.

Sec. 9 ½-28. Duty to render aid and transport.

It shall be the duty of the driver or the attendant of any emergency ambulance to render first aid and assistance to the sick or injured at the place of emergency. It shall further be the duty of an emergency ambulance operator to carry or transport any sick or injured person from the place of emergency to a medical facility as may be necessary without regard to the ability of the person requiring transport to pay for the service.

Sec. 9 ½-29. Solicitation unlawful.

It shall be unlawful for any person, other than a member, officer or employee of the department, while operating or accompanying an ambulance within the territorial limits of the City, to solicit the business of providing emergency medical service or transporting the sick or injured.

Sec. 9½-30. – Emergency Communications Center.

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- (a) It shall be unlawful for any privately owned ambulance to respond to an emergency call within the city or ETJ, unless requested by the City's emergency communications center.
- (b) If any person receives a request for ambulance service response on an emergency basis other than through the City's emergency communications center; that person shall immediately report the same request to the city's emergency communications center at which time a City of Pearland Emergency Medical Service (EMS) unit will be dispatched to respond to the request.
- (c) It shall not be unlawful for a person operating a permitted ambulance in the city, upon responding to a direct call for non-emergency ambulance service, to operate such ambulance under non-emergency conditions. Notifying the City's emergency communications center is not required for non-emergency ambulance responses.

Secs. 9 ½-31—9 ½-39. Reserved.

ARTICLE IV. MEDICAL TRANSFER SERVICES

Sec. 9 ½-40. Permit required; exception.

- (a) *Required.* No person shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in the operation of medical transfer services within the City limits without having first obtained a medical transfer services permit.
- (b) *Exception.* A medical transfer services permit shall not be required for:
 - (1) Emergency Medical Service vehicles or ambulances owned and operated by a governmental entity; or
 - (2) Emergency medical service vehicles or ambulances operating at the request of the City in cases of a mutual aid, disaster, or system overload.
- (c) All emergency medical calls that originate in the City or ETJ will be responded to by the City of Pearland Emergency Medical Services. In the event that a private ambulance service receives a direct call requesting an emergency ambulance response, it shall be the duty of the private ambulance service to immediately

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refer the emergency medical call to the City of Pearland Emergency Medical Service (EMS).

(d) Private ambulances shall not run emergency traffic (lights and sirens) in the City, unless they are driving to an emergency call in another city, or delivering a patient that originated at a location outside the City to a hospital ER. In such an event, the operator of the private ambulance shall notify the City's emergency communications center of reason for emergency traffic, where the ambulance is responding from, and the final destination of the ambulance.

Sec. 9 ½-41. Application.

An application for a medical transport service permit shall be filed with the Chief EMS Officer on a form provided by the Department. Application for initial service may be made at any time and shall contain the following:

- (a) The name, title, business address, and the business phone number of the applicant as well as the following information as applicable:
 - (1) If the person submitting the application represents a partnership, then the name, title, business name, business address, and business phone number shall be given on all partners and persons having an interest in the business;
 - (2) If the person submitting the application represents a corporation, the name and location of its principal place of business, as well as the name, telephone number, and address of all the officers and directors of the organization.
- (b) Documentary evidence from the City's tax assessor-collector that ad valorem taxes on the property to be used in connection with the operation of the proposed medical transfer service have been paid;
- (c) The names, business addresses, and business phone numbers of the organization responsible for dispatching ambulances;
- (d) The name, address, phone number, and qualifications for the Medical Director responsible for all aspects of the operation of the applicant's medical transfer services within the City limits;
- (e) A description of the make, model, vehicle identification number, and license number of each ambulance proposed to be utilized in providing medical transfer services within the City limits;
- (f) Level of care that the applicant proposes to provide according to the DSHS standards within the City limits;

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- (g) A certificate of insurance meeting the requirements of Section 9 ½-43;
- (h) Proof of a valid DSHS emergency medical service provider permit; and
- (i) A sworn statement by the applicant that the information provided in the application is true and correct.
- (k) Any changes in the above information must be reported in writing to the Department within five business days.

Sec. 9 ½-42. Fee.

Each application for a permit required by this department shall be accompanied by a non-refundable permit fee, payable to the City of Pearland, as listed below, to cover the expense of carrying out the provisions of the article:

Application fee, per year...\$250.00
Each ambulance, per year...\$100.00

There shall be no proration of fees.

Sec. 9 ½-43. Insurance.

(a) Any applicant for a permit under this division 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 following insurance coverages in the minimum limits listed:

- (1) Not less than one hundred thousand dollars (\$100,000) for each person and three hundred thousand dollars (\$300,000) for each accident for personal injuries, and one hundred thousand dollars (\$100,000) for property damage. This automobile liability insurance shall not contain a passenger liability exclusion. A written statement from an authorized agent of the ambulance operator's insurance carrier verifying the issuance of such insurance shall be filed with the Chief EMS Officer before any permit may be issued. All such verifications of insurance shall provide for a thirty-day cancellation notice to the Chief EMS Officer.
- (2) Commercial general liability insurance with a minimum aggregate of one million dollars (\$1,000,000.00) and a minimum per occurrence of five hundred thousand dollars (\$500,000.00).
- (3) Applicant must agree to indemnify and hold harmless the City for any and all claims arising from applicant's operations in the City.

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(b) The insurance company shall be of sufficient assets, with an agent in the State of Texas upon whom service of 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 canceled, suspended, voided, or reduced until at least 30 days prior written notice has been given to the City via certified mail, return receipt requested. Additionally, the City shall be added as an additional insured on the policies, and the coverage shall contain no special limitation on the scope of protection afforded to the City. 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 autos will be permitted to operate within the City.

(c) If the City Attorney determines that the insurance coverages required in subsection (a) of the section has 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 agents, servants, and employees.

(d) If the insurance policy is canceled 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.

Sec. 9 ½- 44. Inspection.

(a) The Chief EMS Officer, or designee, shall have the right to inspect, at any time, all ambulances permitted or to be permitted under this provision to determine if such vehicles meet the following minimum standards:

- (1) Each vehicle shall be equipped according to the DSHS equipment standards, and as determined by the ambulance service medical director; the ambulance will be inspected at its highest level of certification (i.e. if licensed as BLS with MICU capability, all MICU level equipment and supplies are required).
- (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 article;
- (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.

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(b) At no time shall any ambulance that is found to be unsafe by the Chief EMS Officer, or designee, be operated on the streets of the City. Nothing in this section, however, shall prevent the Chief EMS Officer, or designee, from inspecting any ambulance at any time. If the inspector finds that any ambulance is in defective condition, the Chief EMS Officer, or designee, shall order the use of the ambulance discontinued until the ambulance is reinspected and approved.

Sec. 9 ½-45. Payment of ad valorem taxes.

It shall be the duty of every 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 permit issued in accordance with this chapter.

Sec. 9 ½-46. Issuance of permits.

(a) The Chief EMS Officer shall issue to each applicant a permit for each vehicle upon the applicant's filing of written proof of insurance as required in this Chapter, 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 chapter and all applicable state and federal statutes and regulations have been satisfied.

(b) Permits shall be issued for a 12-month period. Such period shall run from January 1 to December 31 of each year. Any new permit issued during the year shall begin on the date of issuance and shall end on December 31 of that year. The permit shall state the period for which the permit is issued and the City's assigned permit identification number.

Sec. 9 ½-47. Renewal.

(a) An application for renewal of an existing permit shall be filed on or before December 1 for the renewal period covering the following calendar year. The application process shall be the same as specified in this chapter for initial permits.

(b) The Chief EMS Officer shall issue a 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 chapter, 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 chapter and all applicable state and federal statutes and regulations have been satisfied.

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(c) If a permit has been suspended during the permit year, re-issuance of such permit will be reviewed by the Chief EMS Officer and the medical director during December of the same year. The re-issuance of such permit shall be denied if the Chief EMS Officer and the medical director determine that the health, general public safety and welfare of the citizens of the city would not be protected by re-issuance of said permit.

Sec. 9 ½-48. Transferability.

A permit issued under this chapter shall be personal to the permittee and shall not be transferable.

Sec. 9 ½-49. Alteration 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 chapter, during the life of the permit, to:

- (a) Eliminate or delegate any conditions that might prove obsolete or impracticable; or
- (b) 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 service to the public.

Sec. 9 ½-50. 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 chapter, no such ambulance service, firm, or organization can operate as its main place of business or a storage supply facility in a private residence. The Chief EMS Officer, or designee, has the right to inspect such locations as often as he deems necessary to ensure compliance with all provisions of this chapter. The refusal of any ambulance operator with a business office located within the City limits to allow the Chief EMS Officer, or designee, to inspect such premises shall be considered a violation of this chapter.

Sec. 9 ½-51. Revocation.

(a) In addition to the penalties as provided in the Code for violations of this article, a medical transfer service provider or any of its officers agents and/or employees who violate any section of this chapter, including allowing drivers to operate or drive any vehicle while not properly licensed, is subject to immediate revocation of its medical transfer service permit to operate within the City limits by the Chief EMS Officer. However, not less than 10 days before such revocation, the owner shall be given written notice, by either personal delivery or certified mail to the permittee's address as shown

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on the permit application, and an opportunity to be heard before the Chief EMS Officer and the medical director as to why the permit should not be canceled. No such notice or hearing shall be deemed necessary prior to the revocation of a permit for failure to maintain proper insurance as required.

(b) If the director's decision is not acceptable to the applicant or permittee, he may, within 10 days of that decision, file an appeal in writing with the City Manager. Such a written appeal shall set forth the specific grounds therefor. The City Manager shall notify the appellant within 10 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 City Manager on any appeal pursuant to this chapter shall be final.

(c) Upon suspension, revocation, or termination of an ambulance permit, such ambulance shall cease operations in the City and no person shall permit such ambulance to continue such operations."

Section 3. Savings. All rights and remedies which have accrued in favor of the City under this Ordinance and amendments thereto shall be and are preserved for the benefit of the City.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 5. Repealer. All ordinances and parts of ordinances in conflict herewith are hereby repealed but only to the extent of such conflict.

Section 6. Codification. It is the intent of the City Council of the City of Pearland, Texas, that the provisions of this Ordinance shall be codified in the City's official Code of Ordinances as provided hereinabove.

Section 7. Publication and Effective Date. The City Secretary shall cause this Ordinance, or its caption, to be published in the official newspaper of the City of

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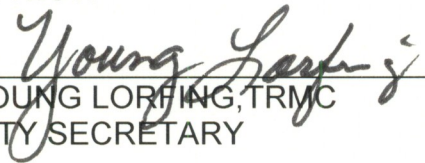
Pearland, upon passage of such Ordinance. The Ordinance shall then become effective ten (10) days from and after its publication, or the publication of its caption, in the official City newspaper.

PASSED and APPROVED ON FIRST READING this the 23rd day of September A. D., 2013.



TOM REID
MAYOR

ATTEST:



YOUNG LORFING, TRMC
CITY SECRETARY




PASSED and APPROVED ON SECOND AND FINAL READING this the 14th day of October, A. D., 013.



TOM REID
MAYOR

ATTEST:



YOUNG LORFING, TRMC
CITY SECRETARY



VOTING RECORD SECOND AND FINAL READING

October 14, 2013

Voting "Aye" – Councilmembers Carbone, Sherman, Hill, and Ordeneaux.

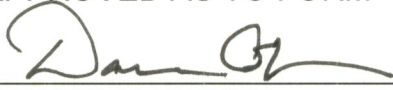
Voting "No" - None.

Motion passes 4 to 0. Councilmember Sherrouse absent.

PUBLICATION DATE: October 17, 2013

EFFECTIVE DATE: October 26, 2013

APPROVED AS TO FORM



DARRIN M. COKER
CITY ATTORNEY

PUBLISHED AS REQUIRED BY SECTION 3.10
OF THE CHARTER OF THE CITY OF PEARLAND, TEXAS