

Ordinance No. 1155

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BRADY, TEXAS, BY AMENDING CHAPTER 4 TO ESTABLISH EMERGENCY MEDICAL SERVICES AND AMBULANCE REGULATIONS; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR ANY VIOLATION OF ANY PROVISION OF THIS ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.

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

Section 1. The Code of Ordinances of the City of Brady, Texas, is hereby amended by adding to Chapter 4, Emergency Medical Services and Ambulance Regulations, to read as follows:

“CHAPTER 4. EMERGENCY MEDICAL SERVICES AND AMBULANCE REGULATIONS”

DIVISION 1. IN GENERAL

Sec. 4.100. Definitions.

For the purposes of this chapter, 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.

City shall mean the “City of Brady, Texas.”

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

Department shall mean the designated Emergency Medical Service for the City of Brady.

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 agents or employees.

EMS Chief shall mean the Department Head of the Emergency Medical Service.

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.

Medical Transfer Services 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.

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 medical transfer services within the City limits.

Medical Transfer Service Provider shall mean a person providing medical transfer services and holding a valid Medical Transfer Service Permit.

Sec. 4.101. Interference with Department personnel, equipment.

The City of Brady Fire/EMS Department shall be the sole provider of emergency medical service (911 service) within the City of Brady and within McCulloch County. It shall be unlawful for any person to intentionally or knowingly 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 intentionally or knowingly 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 intentionally or knowingly 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. 4.102. 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 two thousand dollars (\$2,000.00), and each instance such a 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 or causing to be violated any of the sections of this article.

Sec. 4.103 – 4.110 reserved.

DIVISION II. AMBULANCES

Sec. 4.111. Personnel required during operation of an ambulance.

It shall be unlawful to operate or drive or cause to be operated or driven an ambulance on a public street of the City when furnishing ambulance service, including emergency ambulances

operated by the emergency medical service Department of the City, unless such ambulance on each trip meets the minimum staffing requirements as set out in Section 157.11(a) of Emergency Medical Services rules adopted by the DSHS under Section 773.050 of the Texas Emergency Medical Services Act, V.T.C.A., Health and Safety Code, ch. 773.

Sec. 4.112. Licensing and operating condition requirements for ambulances.

No ambulance shall be operated upon the streets of the City for the purposes of furnishing ambulance service unless and until such ambulance has a valid license issued by the DSHS.

Sec. 4.113. 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 157.11 of Emergency Medical Services Rules adopted by the DSHS under Section 773.050 of the Texas Emergency Medical Services Act, V.T.C.A., Health and Safety Code, ch. 773. Additionally, ambulances shall also meet the minimum requirements as outlined, in writing, by the physician medical director of record for the licensed ambulance service provider and as outlined by the city as required equipment.

Sec. 4.114 – 4.120 reserved.

DIVISION III. MEDICAL TRANSFER SERVICES

Sec. 4.121. Permit required; exception.

(a) *Required.* No person shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in the operation of medical transfer services upon or over any public street within the City limits without having first obtained a transfer services permit.

(b) *Exception.* A transfer services permit shall not be required for:

- (1) Emergency Medical Service vehicles or ambulances owned or operated by the City of Brady Fire/EMS Department; or
- (2) Emergency Medical Service vehicles or ambulances operating solely at the request of the City or the designated Emergency Medical Service provider for the City or in cases of a mutual aid, 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.

(4) Air ambulance services are exempt from this Article.

An application for license to operate an ambulance on the public streets of the City of the purpose of providing medical ambulance transfer service within the City or County shall be made by the owner thereof for each ambulance so used or to be so used, or an agent authorized in writing by such owner to make such application, on forms obtained from the City Manager, which shall contain at minimum the following:

- a. the name, address and telephone number of the owner,

- b. any trade or other fictitious name used or to be used by the owner when providing ambulance service;
- c. the make, model, year of manufacture, motor and chassis number, and current state license number of each ambulance;
- d. the length of time each ambulance has been in service;
- e. the color scheme, insignia, name, monogram or other distinguishing characteristics used or to be used by the owner to designate such ambulance together with an accurate photograph of each ambulance to be permitted;
- f. a list of all current employees of the ambulance service including name and date of birth for each employee; and
- g. each application for a permit required by the City shall be accompanied by an non-refundable permit fee, payable to the City of Brady, as established by resolution of City Council.

The annual fee associated with the permitting and inspection of medical transfer services is one-thousand five hundred dollars (\$1,500.00) per vehicle. There is also an individual Inspection fee of \$200.00 per truck.

Sec. 4.122. Insurance requirements.

- (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 required insurance coverage 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 one hundred thousand dollars (\$100,000.00) for each person and five hundred thousand dollars (\$500,000.00) for each accident for personal injuries, and on hundred thousand dollars (\$1,000,000.00) 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 thirty day cancellation notice to the City of Brady.
 - (2) Commercial general liability insurance with a minimum aggregate of three million dollars (\$3,000,000.00) and a minimum per occurrence of one million dollars (\$1,000,000.00).
 - (3) Professional liability insurance in an amount of not less than one million dollars (\$1,000,000.00).
 - (4) Workers' Compensation Insurance.
 - (5) 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 shall be added

as an
special

additional insured on the policies, and the coverage shall contain no
limitation on the scope of protection afforded to the City.

(b) 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 thirty days (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 Manager. Only those covered autos will be permitted to operate within the City.

(c) If the City Attorney determines that the insurance coverage required in subsection (a) of this section become so impaired as to require new and additional insurance, the City Attorney shall require such additional insurance in such company as he may fee is necessary to ensure faithful performance by the operator of ambulances his agents, servants, and employees.

(d) If the insurance policy is cancelled and no insurance policy if 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. 4.123. Inspection.

(a) The Brady City Manager or designee, or the police department, shall have the right to inspect, at any time, all ambulances permitted or to be permitted under this division to determine if such vehicles meet the following minimum standards:

and as

- (1) Each vehicle shall be equipped according to the Texas DSHS equipment standards, and as determined by the ambulance service Medical Director, identified by the City as required equipment;
- (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;
- (5) Each vehicle shall be inspected each year by a person authorized to conduct vehicle safety inspections by the State of Texas; and
- (6) No vehicle shall display the identification "Emergency Ambulance", "Emergency", "911", or similar marking.

(b) At no time shall any ambulance that is found to be unsafe by the Brady City Manager or designee, or the police department be operated on the streets of the City. Nothing in this section however shall prevent the Brady City Manager or designee, or the police department from inspecting any ambulance at any time. If the inspector finds that

any ambulance is out of compliance, the Brady City Manager or designee, shall order the use of the ambulance discontinued until the ambulance is re-inspected and approved.

(c) At no time shall a person operating a permitted transfer ambulance in the City, respond to or from a direct call for emergency medical service, nor operate such ambulance as an emergency ambulance under emergency conditions.

(d) At no time shall a person operating a permitted transfer ambulance in the City respond to or from a direct call for a medical transfer service unit until notifying Brady Fire/EMS dispatcher.

Sec. 4.124. 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 and to provide to the City a certificate demonstrating that ad valorem taxes have been paid. The failure to pay such ad valorem taxes before they become ninety (90) days delinquent shall result in revocation of the permit issued in accordance with this chapter.

Sec. 4.125. Special requirements for transfer ambulances.

(a) *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, each of whom must possess a current emergency medical technician basic certificate.

(b) *Posting of fee schedule.* All transfer ambulance vehicles shall have a current fee schedule conspicuously posted in the patient's compartment. A transfer services permittee shall have a current fee schedule on file with the City of Brady.

Sec. 4.126. Issuance of permits.

(a) The City Secretary, or 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 chapter and all applicable state and federal statutes and regulations have been satisfied.

(b) Permits shall be issued for a twelve-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, the name of the owner, the make of the vehicle(s), the vehicle identification number(s), and the current license number(s).

Sec. 4.127. Renewal.

- (a) An application for renewal of an existing 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 chapter for initial permits.
- (b) The City Secretary 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, upon each vehicle passing the inspection required by this Chapter, and upon determination that all requirements of this chapter and all applicable state and federal statutes and regulations have been satisfied.
- (c) If a permit has been suspended during the permit year, re-issuance of such permit will be reviewed by the Brady City Manager, or designees, during December of the same year. The re-issuance of such permit shall be denied if the City Manager or designee determines that the provisions of this ordinance have not been met.

Sec. 4.128. Transferability.

A permit issued under this chapter shall be specific to both the permittee as well as the permitted vehicle, and shall not be transferable.

Sec. 4.129. 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 chapter, during the life of the permit, to:

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

Sec. 4.130. 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 Brady City Manager or designee, or police department, has the right to inspect such locations as often as deemed 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

Brady City Manager or designee, or police department, to inspect such premises shall be considered a violation of this chapter and may be subject to forfeiture of the Medical ambulance permits.

Sec. 4.131. 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 or while intoxicated/incapacitated, is subject to immediate suspension of its medical transfer service permit to operate within the City limits by the Brady City Manager designee. Any violation of the chapter may subject the transfer service provider to suspension or revocation of its Non-Emergency Transfer Service Permit. However, not less than ten (10) days before any revocation or suspension for other than operating a vehicle while not properly licensed or while intoxicated/incapacitated, the owner shall be given written notice, be 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 Brady City Manager or designee as to why the permit should not be revoked or suspended. No such notice or hearing shall be deemed necessary prior to the revocation of a permit for failure to maintain proper insurance as required. Additionally, the permittee shall notify the City of any state or federal investigation, or conviction of violation of any state or federal law within ten (10) days of such investigation or conviction.

(b) If the Brady City Manager or designee's decision is not acceptable to applicant or permittee he may, within ten (10) days of that decision, file an appeal in writing with the City Manager. During the pendency of the appeal, the permit shall be suspended. Such a written appeal shall set forth the specific grounds therefore. The City Manager shall notify the appellant within ten (10) days after the receipt of appeal as to the time and place of the hearing, which shall be within thirty (30) days of receipt of such appeal. The determination of City Manager on any appeal pursuant to this chapter shall be final.

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

Sec. 4.132 – 4.140 reserved.

Section 2. Penalty. Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each violation occurrence shall constitute a separate offense.

Section 3. Repealer. All ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed.

Section 4. Severability. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not

affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Brady, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Passed and Approved on FIRST READING on the _____ day of June, 2014.

Passed and Approved on SECOND READING on the _____ day of June, 2014.

Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney