

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Police

AGENDA DATE: July 12, 2016—First Reading
July 26, 2016—Public Hearing

CONTACT PERSON/PHONE: Assistant Chief Michelle Gardner, 212-4301
Dionne Mack, Director of Libraries, 543-5413

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: Goal 2: Set the Standard for a Safe and Secure City

SUBJECT:

An ordinance amending Title 9 of the El Paso Municipal Code — Health and Safety — Chapter 9.85 — Emergency and Transfer Ambulance Services — relating to the addition of Chapter 9.85.

BACKGROUND / DISCUSSION:

On August 25, 2015, City Council unanimously carried to direct staff to review the Taxicab Ordinance and revise as needed or provide for a new ordinance to allow transportation network companies (TNC's) to operate legally in the City of El Paso, remove outdated language that no longer applies, remove over-extensive requirements, and ensure compliance with accommodating disabled persons. Such review and revisions included movement of portions of Title 6 to other Titles of the Municipal Code that are more suitable.

SELECTION SUMMARY:

N/A

PRIOR COUNCIL ACTION:

City Council adopted the current ordinance on August 24, 2010.

AMOUNT AND SOURCE OF FUNDING:

Account No: N/A
Funding Source: N/A
Amount: N/A

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), ADDING CHAPTER 9.85 (EMERGENCY AND TRANSFER AMBULANCE SERVICES); THE PENALTY BEING AS PROVIDED IN SECTIONS 1.08.010, 1.08.020 AND 1.08.030 OF THE EL PASO CITY CODE.

WHEREAS, the current ordinance regulating private ambulances is codified in Title 6 (Vehicles for Hire), Chapter 6.40 (Emergency and Transfer Ambulance Services) in the El Paso City Code; and

WHEREAS, overall changes to Title 6 necessitate moving the current Chapter 6.40 to Title 9 (Health and Safety), as the new Chapter 9.85 (Emergency and Transfer Ambulance Services).

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:

Section 1. That Title 9 (Health and Safety), be amended to add Chapter 9.85 (Emergency and Transfer Ambulance Services) as follows:

Chapter 9.85 – Emergency and Transfer Ambulance Services

Article I. - General Provisions

9.85.010 - Ambulances—Response to calls to be in compliance with franchise terms.

The driver or operator, as the term is defined in Section 9.85.040(F), of an ambulance, other than a city EMS vehicle, shall not respond to any call to pick up an ill, injured or dead person in any public street, public alley or public park except in compliance with the terms of a franchise granted by the city council.

9.85.020 - Requests for service.

No person shall, by any means whatsoever, cause the El Paso emergency medical service to dispatch an EMS ambulance, unless he or she knows, or has reasonable grounds to believe, that a bona fide medical emergency exists.

9.85.030 - Cruising prohibited.

A. No ambulance shall be driven in any public street, public alley or public park, or be parked or stand therein, except while going to or from the scene of a call for ambulance service, or a place where the ambulance is to be repaired, or delivered to a purchaser, or inspected by public authorities, or other similar lawful and necessary purpose not related to the

seeking of business or the mere convenience of the driver or crew.

B. The ambulance service shall have no right to compensation from anyone for picking up a person from a street, alley or park in violation of subsection A of this section.

Article II. - Private Emergency and Transfer Ambulance Service

9.85.040 - Definitions.

The following words shall have the following meanings:

A. "Central dispatch or communications center" means the facility from which the EMS units are radio-dispatched.

B. "City" means the city of El Paso.

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

D. "Emergency ambulance" means any motor vehicle especially designed, constructed, equipped and used for transporting the injured or sick in answer to an emergency call.

E. "Emergency call" means any request for ambulance service that is made by telephone or other means of communication in circumstances which are, or have been represented to be, an emergency requiring immediate ambulance service.

F. "Operator" means any individual, firm or corporation engaged in the business of transporting the injured, wounded, sick or deceased and using the streets of the city for such purpose.

G. "Response time" means the time from which a call is received until the time of arrival at the scene.

H. "Street" means any street, alley, avenue, boulevard, drive or highway commonly used for the purpose of travel within the corporate limits of the city.

I. "Transfer ambulance" means any ambulance meeting current DSHS construction requirements, 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.

9.85.050 - Franchise—Required.

It is unlawful for any person, firm, corporation or operator to engage in furnishing a

transfer service by operating, driving or causing to be operated or driven a transfer vehicle upon the streets of the city without first having obtained a franchise in accord with the terms and provisions of this article.

9.85.060 – Franchise Application—Contents.

A. Application for a franchise shall be filed with the city clerk upon forms furnished by the city clerk. The applicant shall furnish the following information:

1. A statement that the applicant has obtained liability insurance in accordance with the requirements provided by this article before commencing service;
2. A statement of the number of vehicles which the applicant proposes to operate and the make, model and vehicle identification number of each transfer vehicle;
3. A statement that each vehicle is supplied with a first-aid kit and other minimal emergency equipment as set forth in Section 9.85.110(C);
4. A list of persons who will act as ambulance attendants and drivers, their current state of Texas Department of State Health Service certificate status, and their date of employment, driver's license and expiration date, defensive driving course certificate, and physician release;
5. A statement that the safety mechanism of the vehicle is operative and is in good repair; including, but not limited to, headlights, tail-lights, turn signals, brakes, brake lights, emergency lights, windshield wipers, wiper blades, handles opening doors and windows, and tires and spare tires.

B. Copies of each application for ambulance service shall be forwarded to the chief of the fire department or designee, and he shall review applications for ambulance service and make recommendations to the city council.

C. Any person who gives false information regarding any statements made in subsections (A)(1) through (A)(5) of this section, shall be guilty of a misdemeanor and subject to the punitive measures set forth in Section 1.08.010.

9.85.070 - Franchise—Application—Review—Hearing.

A. Upon application for a franchise, the city council will set the time for a public hearing thereon and receive evidence as to whether the public convenience and necessity justify granting the franchise, whether the applicant is qualified to render good service and has or will have sufficient equipment of suitable type and condition, and to any other relevant facts bearing on whether the franchise will be in the public interest. The city council shall grant the franchise and determine upon what terms and conditions it will be granted, or shall refuse to grant it, in accordance with the council's findings as to whether considering the above standards, the public interest will be served.

B. In all hearings, the burden of proof shall be upon the applicants to establish that a need in the community exists for their services.

9.85.080 - Insurance.

A. No vehicle shall be operated on the public streets of the city unless the applicant provides to the city clerk a copy of the public liability insurance policy, issued by an insurance company authorized to do business in the state, required by subsection B of this section.

B. Each insurance policy shall provide that each vehicle be covered by not less than one hundred thousand dollars per individual, three hundred thousand dollars per incident and one hundred thousand dollars property damage insurance.

C. Such insurance policies shall not contain a passenger liability exclusion.

D. Each liability insurance policy shall contain a provision obligating the insured to give the city clerk written notice of cancellation or reduction not less than ten days prior to any cancellation or reduction.

9.85.090 - Attendants and drivers—Requirements.

Attendants and drivers employed with an ambulance service must meet the following minimal requirements:

A. Be currently certified with the Texas Department of State Health Services, Emergency Medical Services Division, as an emergency medical technician and indicate the applicable level;

B. No later than ninety days from the date of employment, must provide evidence showing completion of the National Safety Council approved defensive driving course; and

C. Possess a license valid to operate an emergency vehicle and transfer ambulance from the State of Texas; and

D. Within fifteen days of employment, must have a written statement from a physician, authorized to practice medicine in the state, stating that the person is free of communicable diseases and is physically capable of performing the required duties.

9.85.100 - Ambulance operations.

A. Ambulance service operators, their agents or employees, upon receipt of request for emergency service within the city limits, shall immediately relay the request to the EMS central dispatcher.

B. Unless authorized to do so by the chief of the fire department or his designee, it is unlawful for ambulance service operators, their agents, or their employees to go to the scene of an emergency within the city limits with the intent to provide emergency service and transportation; provided, however, if persons operating a transfer or emergency vehicle discover an emergency situation within the city limits, they shall immediately notify the EMS central dispatcher and shall remain to render aid until an EMS vehicle arrives.

C. Ambulance service operators shall mark each vehicle distinctly with the name of the company providing ambulance service. The words "Emergency Medical Services," or "EMS" shall not be written on any vehicle, and vehicle shall not be marked in any way which might cause confusion with city EMS vehicles. It is unlawful for any person to mark his vehicles in any way, other than to place the name of the company on the vehicles.

D. Ambulance service operators, their agents, or their employees, shall not hold out to the public in any manner that their personnel are trained EMTs or paramedics unless they have been so certified by the Texas Department of State Health Services, Emergency Services Medical Division.

E. Ambulances shall be used only for the purpose of transporting patients, and no other use shall be lawful.

9.85.110 - Personnel, vehicles and equipment—Standards and requirements—Inspection.

A. Each ambulance shall be manned by two persons, one driver and one attendant, both meeting the requirements of Section 9.85.090.

B. Each ambulance shall pass the Texas Department of Public Safety annual inspection to ensure compliance with the following safety standards:

1. A copy of the receipt of the Texas Department of Public Safety vehicle inspection shall be in each ambulance at all times;

2. Each ambulance shall have a heater, complete with defrosters, and an air conditioner, both capable of maintaining comfortable temperature levels in the driver and patient compartments;

3. Each ambulance shall meet the physical dimensions of the current Texas Department of State Health Service ambulance specifications; provided, however, that any ambulance currently used which does not meet these specifications may continue in use until it is replaced;

4. Each ambulance shall be kept clean and in good mechanical condition;

5. Each ambulance shall annually be required to pass the El Paso Fire Department field inspection to be permitted to operate on City streets;

C. In addition to other equipment which may be required by federal or state law,

each ambulance shall carry all medical equipment that is listed on the City's Private Franchise Ambulance Field Inspection Report, as amended and must be clean, ready for patient use and in good working order.

D. All ambulances which are franchised under this chapter shall be inspected by the chief of the fire department or designee annually. Those ambulances which have passed inspection shall have a sticker in rear window that is visible from the exterior of the vehicle at all times. Any ambulance found not to be in compliance with this chapter shall be tagged, and the sticker removed. Thereafter, until the vehicle passes inspection, it cannot lawfully operate on the streets of the city. Ambulances may be inspected at any hour by the chief of the fire department or designee, and he or his designate may require ambulances to proceed to a specified location for further inspection.

E. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the chief of the fire department or designee or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any ambulance containing any condition or code violation which makes such ambulance unsafe, dangerous or hazardous, the chief of the fire department or designee or his authorized representative may enter such building or premises at all reasonable times to inspect the ambulance or to perform any duty imposed upon the chief of the fire department or designee by this chapter; provided, that if such building, premises or ambulance be occupied, he shall first present proper credentials and request entry; and if such building, premises or ambulance be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building, premises or ambulance and request entry. If such entry is refused, the chief of the fire department or designee shall have recourse to every remedy provided by law to secure entry.

When the chief of the fire department or designee or his authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, premises or ambulance shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the chief of the fire department or designee or his authorized representative for the purpose of inspection and examination pursuant to this chapter.

The chief of the fire department or designee or his authorized representative may then direct such ambulances to proceed to a specified location for further inspection.

9.85.120 - Private emergency service regulations.

A. It is unlawful for any person, either as owner, agent, or otherwise, other than a member of the El Paso EMS to furnish, operate, conduct, maintain, advertise or otherwise be engaged in or profess to be engaged in the operation of an emergency ambulance service upon the streets, alleys or any public way or place within the city limits or to avail himself of the permission given ambulances by Section 12.12.010, or any other law or ordinance, to disregard

traffic laws or ordinances, except in the following circumstances:

1. It shall not be unlawful for a person operating a transfer ambulance franchised by the city, upon responding to a direct call for nonemergency conditions, to use emergency equipment, after notifying the central dispatcher and receiving permission to make an emergency run, when a determination is made by the transfer ambulance attendant that an emergency exists requiring the sick or injured person to be transported with all practical speed to a hospital.

2. It shall not be unlawful for any person operating a transfer ambulance franchised by the city, who is performing the service of maintaining an ambulance at a particular location for a sporting or contracted event, to operate such ambulance under emergency conditions, using emergency equipment, after notifying the central dispatcher and receiving permission to make an emergency run, when a determination is made by the transfer ambulance attendant that an emergency exists requiring the sick or injured person to be transported with all practical speed to a hospital.

3. It shall not be unlawful for any person to operate an emergency ambulance to a hospital within the city, if the place of emergency at which the sick or injured person was picked up by such ambulance is outside the city limits and the ambulance making the emergency run is licensed and operated in accordance with all applicable state laws. On each emergency run into the city, ambulance personnel must notify the central dispatcher and receive permission to make an emergency run, unless otherwise notified by the section chief of EMS or his designee.

4. It shall not be unlawful for any person to operate a transfer ambulance franchised by the city on an emergency run when EMS ambulances are not available, and the central dispatcher requests the backup emergency ambulance service for the EMS.

B. Any person operating an ambulance franchised by the city who makes an emergency run under the provisions of subsections (A)(1) through (4) of this section, shall, within ten days of each emergency run, submit to the chief of EMS a report on a form provided by the chief, which shall describe the circumstances requiring the emergency run.

9.85.130 - Violation—Penalty.

Any violation of any section of this chapter shall constitute a misdemeanor punishable in accordance with Sections 1.08.010, 1.08.020 and 1.08.030 of the El Paso City Code.

Section 2. That, except as herein amended, Title 9 (Health and Safety) shall remain in full force and effect.

ADOPTED this _____ day of _____, 2016.

CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Samuel Peña
Fire Chief