

**ST. CHARLES COUNTY AMBULANCE DISTRICT
ORDINANCE #08-02**

AN ORDINANCE OF THE ST. CHARLES COUNTY AMBULANCE DISTRICT (“DISTRICT”) TO SET FORTH THE PROCEDURES GOVERNING APPLICANTS FOR A LETTER OF ENDORSEMENT.

WHEREAS, the District is a validly created political subdivision pursuant to RSMo § 190.010;

WHEREAS, RSMo § 190.060.1(7) provides the District with the power “to adopt such reasonable regulations and Ordinances as may be necessary to render the highest quality of emergency medical care”;

WHEREAS, RSMo § 190.060.1(3) gives the District the authority to act as both an ambulance service provider and the governing body of ambulance service providers within its territory.

WHEREAS, RSMo § 190.105.1 prohibits any person from engaging “in the business or service of the transportation of patients by ambulance . . . unless such person holds a currently valid license” from the State of Missouri;

WHEREAS, RSMo § 190.105.5 provides that the Comprehensive Emergency Medical Systems Act (“Act”) does not preclude the District from enacting Ordinances not in conflict with the Act;

WHEREAS, RSMo § 190.109.3 creates a condition precedent to the State of Missouri’s issuance of a new ambulance service license or the expansion of an existing ambulance service license, such that the ambulance service applicant is required to submit to the State of Missouri a letter of endorsement from each ambulance district in whose territory the applicant proposes to operate;

WHEREAS, RSMo § 190.109.3 requires the ambulance district to conduct a public hearing regarding the ambulance service applicant’s letter of endorsement and, in appropriate circumstances, adopt a resolution approving the endorsement;

WHEREAS, pursuant to the authority of RSMo § 190.109.3, the District wishes to provide an orderly and efficient application process which ambulance service providers are required to follow when applying to the District for the statutorily required letter of endorsement;

BE IT ENACTED BY THE BOARD OF DIRECTORS OF THE ST. CHARLES COUNTY AMBULANCE DISTRICT, AS FOLLOWS:

Section I. Definitions:

- A. Applicant: The individual or entity applying to the St. Charles County Ambulance District for the letter of endorsement;
- B. Board: the Board of Directors of the St. Charles County Ambulance District;
- C. CEO: The Chief Executive Officer of the St. Charles County Ambulance District;
- D. District: St. Charles County Ambulance District;
- E. Executive Assistant: The custodian of records for the St. Charles Ambulance District.
- F. Franchised Ambulance Service(s): Those individuals or entities who possess a valid and effective franchise to provide ambulance services issued by the St. Charles County Ambulance District;
- G. Ordinance: St. Charles County Ambulance District Ordinance 08-02;

Section II. Authority & Duties of the CEO:

- A. Authority to promulgate Ordinances.
 - i. The CEO shall have authority to promulgate regulations he or she deems necessary to implement the policy and intent of this Ordinance (hereinafter the "Regulations"). The Regulations shall be approved by the Board and filed with the Executive Assistant.
 - ii. The CEO shall have authority to receive all applications from Applicants for a letter of endorsement. Such application forms shall be prescribed by the CEO in accordance with the Regulations.
 - iii. The CEO shall have authority to inspect the premises, vehicles, equipment and personnel of Applicants to ensure compliance with this Ordinance, any other Ordinance(s) of the District applicable to Applicant, and perform any other inspections that may be required by the District.
- B. Duties of the CEO:
 - i. Review each letter of endorsement application for conformance with this Ordinance, all Regulations promulgated pursuant hereto, and any other Ordinance(s) of the District applicable to Applicant.
 - ii. Conduct the public hearing required by RSMo § 190.109.3 and issue a recommendation to the Board whether the Applicant should receive a letter of endorsement.
 - iii. CEO shall provide notice of the public hearing to the residents

- of the District in accordance with the Regulations.
- iv. The CEO shall provide notice of the public hearing to the Franchised Ambulance Service(s) at their last-known business address.
 - v. The CEO shall allow District residents to attend the public hearing and participate pursuant to the Regulations.
 - vi. The CEO shall allow the Franchised Ambulance Service(s) to attend the public hearing and participate pursuant to the Regulations.

Section III. Application Processing Procedures:

- A. Upon receipt of an application for a letter of endorsement, the CEO shall review all documentation and shall cause such investigation as he or she may deem necessary to be made of the Applicant and its proposed operations. Within sixty (60) days of receipt of an application for a letter of endorsement, a public hearing shall be held to receive written and oral testimony from the Applicant, the Franchised Ambulance Service(s) and/or the public regarding the Applicant.
- B. Within fifteen (15) days after the public hearing, the CEO shall issue to the Board a recommendation as to whether the Applicant has satisfied the criteria set forth in Section IV of this Ordinance. Such recommendation shall be based upon the results of his or her investigation as well as the information received at the public hearing.
- C. Upon receipt of the CEO's recommendation the Board shall have seven (7) days to either accept the CEO's recommendation or reject the CEO's recommendation and replace said findings with its own. A majority vote of the Board is necessary to accept or reject the CEO's recommendation.
- D. If a majority of the Board votes to accept the CEO's recommendation, the Board shall issue a resolution as to the findings. The Board shall send a copy of the resolution to the Emergency Medical Services Unit at the Missouri Department of Health and Senior Services.
- E. If the Board vote results in a rejection of the Applicant's request for a letter of endorsement, the Applicant shall have the right to a non-contested case hearing before the Board. The Applicant shall notify the Board of its intent to pursue a non-contested case hearing before the Board, within fourteen (14) days after notice of the decision by the CEO/Board has been mailed to the Applicant's address as set forth in its application, via a written statement setting forth grounds upon which it feels the Board has erred.

Upon receipt of a non-contested case hearing, the Board shall set the hearing for the next meeting of the full Board. The Board shall give written notice of such hearing to the Applicant and all other persons or entities who appeared and spoke at the public hearing before the CEO.

- F. The non-contested case hearing before the Board shall be informal in nature.
- G. The Board shall have fifteen (15) days from the date of the non-contested case hearing to issue its findings.
- H. If a majority of the Board votes in favor of issuing a letter of endorsement to the Applicant, the Board shall issue a resolution granting such letter of endorsement. The Board shall send a copy of the resolution to the Emergency Medical Services Unit at the Missouri Department of Health and Senior Services.
- I. If a majority of the Board votes against issuing a letter of endorsement to the Applicant, the Applicant may appeal pursuant to Section V of this Ordinance.

IV. Criteria for Issuance of a Letter of Endorsement to an Applicant who Seeks to Provide New or Expanded Ambulance Service:

The Applicant shall bear the burden of proof with regard to the following criteria and must provide clear and convincing evidence of each of the criteria listed in this Section IV in order to be granted a letter of endorsement.

The CEO, and the Board if there is an appeal, shall consider the following criteria as they relate to the Applicant before making a decision on whether to recommend a letter of endorsement:

- A. The Applicant must provide a benefit to public health that outweighs the associated costs.
 - i. Included in the foregoing, but the foregoing is not limited hereto, the Applicant must not cause a material, adverse impact upon Licensed Ambulance Service(s) in such a way as to result in a diminution in quality or level of existing services;
- B. The Applicant must maintain or enhance the public's access to ambulance services.
 - i. Included in the foregoing, but the foregoing is not limited hereto, the Applicant must demonstrate the existing Licensed Ambulance Service(s) provides inadequate response times and that licensure of the Applicant will improve response times;
- C. The Applicant must maintain or improve the public health and promote the continued development of the regional emergency medical service system;
 - i. Included in the foregoing, but the foregoing is not limited hereto, the Applicant must show that it will not increase costs

to the residents of the District without a commensurate or significant improvement in the quality or level of service provided;

- D. The Applicant must demonstrate the appropriate expertise in the operation of ambulance services;
 - i. Included in the foregoing, but the foregoing is not limited hereto, the Applicant must demonstrate knowledge of and experience in the financing, management, equipment and staffing of an ambulance service; and
- E. The Applicant must demonstrate the financial resources necessary for the operation of the proposed ambulance service.
 - i. Included in the foregoing, but the foregoing is not limited hereto, the Applicant must submit audited financial statements for the three (3) years immediately preceding the year of its application. Further, the Applicant may submit other items to document financial stability, including lines of credit, bank and vendor letters of reference, or other items which may detail the Applicant's financial position.
- F. Proof of Public Necessity: The Applicant shall provide proof that there is a public necessity for its services which is not being met by the Franchised Ambulance Service(s), or will not be met by the Franchised Ambulance Service(s) within a reasonable period of time.
 - i. Included in the foregoing, but the foregoing is not limited hereto, the Applicant must comprehensively describe the effect of granting a franchise to the Applicant will have on the Franchised Ambulance Service(s). This description will include the financial impact upon the Franchised Ambulance Service(s) and how this will affect their current ambulance rates and/or subsidies.
- G. Additional Information: Any information the CEO shall deem reasonably necessary for a fair determination of the credibility of the Applicant to provide ambulance services within the District in accordance with the requirements of Missouri laws and the provisions of this Ordinance.

Section V: Applicant is Entitled to a Hearing Before the Board on Appeal – Procedures Applicable thereto:

- A. Each Applicant who has been aggrieved by a decision of the CEO/Board shall be entitled to a hearing before the Board in order to present evidence relevant to the criteria set forth in Section IV of this Ordinance.
- B. The hearing shall be a contested case under Chapter 536 of the Missouri Revised Statutes. Accordingly, §§ 536.063 – 536.095 of the Missouri Revised Statutes are fully applicable thereto. Thus,

the hearing shall be quasi-judicial in nature. Further, a reviewing court shall be bound by the Board's findings of fact.

- C. In addition to the notice required by §§ 536.063 – 536.095 of the Missouri Revised Statutes, the Board shall send notice of the hearing to the Franchised Ambulance Service(s) and the ambulance service provider(s) having a valid and enforceable contract with the District. *See* RSMo § 190.109.4. These entities shall be permitted to attend the hearing and give testimony on any of the criteria set forth in Section IV of this Ordinance.
- D. The Chairperson of the Board shall preside over the hearing. The Chairperson and/or the Board may seek the advice and counsel of the District's attorney on any and all matters relating to the hearing proceeding.
- E. Upon request of the Chairman and/or the Board, the District's attorney shall be permitted to ask the Applicant or any witnesses questions on all matters relevant to the hearing proceeding.
- F. Oral evidence given by the Applicant and all witnesses shall be taken upon oath or affirmation subject to the penalty of perjury.
- G. At the conclusion of the hearing, the Board shall deliberate as to whether the Applicant has carried its burden of proof to the level of clear and convincing evidence on the criteria set forth in Section II of this Ordinance. In order to issue the letter of endorsement, there must be a unanimous affirmative vote by the Board. Although the District's attorney shall not be permitted to vote, during the deliberation process the District's attorney shall be permitted to give his or her opinion to the Board as to whether the Applicant has carried its burden of proof.
- H. The Board shall issue a written decision of its findings within thirty (30) days of the conclusion of the hearing unless extensions are granted to the parties for the submission of documents, additional evidence is requested by the Board, or the Board has any other reason for not concluding the hearing.
- I. If the members of the Board unanimously determine that the Applicant has satisfied its burden of proof on all of the criteria set forth in Section IV of this Ordinance, it shall adopt a resolution granting a letter of endorsement to the Applicant. The Board shall send a copy of the resolution to the Emergency Medical Services Unit at the Missouri Department of Health and Senior Services.
- J. If the members of the Board do not unanimously determine that the Applicant has satisfied its burden of proof on all of the criteria set forth in Section IV of this Ordinance, the Applicant may appeal such determination, within the time limits set forth in §§ 536.063 – 536.095 of the Missouri Revised Statutes, to the Circuit Court of St. Charles County, Missouri.

Section VI. Authorized Ambulance Service Area:

Upon issuance of a letter of endorsement to the Applicant, the Applicant's authorized ambulance service area for which such letter shall apply will be the service area designated in the Applicant's application, unless the Board shall determine a different authorized ambulance service area as expressed in its letter of endorsement.

Section VII. Effect of Failing to Comply With this Ordinance:

Failure to obtain a letter of endorsement pursuant to the provisions of this Ordinance shall render any license erroneously issued by the Unit of Emergency Medical Services at the Missouri Department of Health and Senior Services invalid and unenforceable within the District. Accordingly, Section 8 of St. Charles County Ambulance District Ordinance 08-01 entitled "Violations and Penalties" and Section 190.180.1 RSMo shall be fully applicable thereto.

Section VIII. Effective Date:

This Ordinance shall be in full force and effect from and after the date of its passage and approval and shall remain in effect until amended or repealed by the Board.

Section IX. Severability Clause:

If any portion of this Ordinance shall be deemed invalid by a court of law with competent jurisdiction, the remaining portions of this Ordinance not so declared as invalid shall remain in full force and effect.

Section X. Interpretation of Ordinance 08-02:

The issuance of a letter of recommendation pursuant to the terms of this Ordinance shall not be construed to preclude or exempt the Applicant in any manner from full and complete compliance with the terms of Ordinance 08-01, which governs the criteria for issuance of a franchise to operate ambulance services within the District and compliance with any other applicable ordinance or resolution without which prohibits the operation of an ambulance service within the district; Thus, prior to operating ambulance services within the District, the Applicant must comply with the terms of (1) Ordinance 04-01, (2) Ordinance 00-01 and any other applicable ordinance or resolution of the District, and (3) have a valid and enforceable license from the Emergency Medical Services Unit at the Missouri Department of Health and Senior Services.

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ADOPTED THE 26th DAY OF MARCH 2008



BRENDA L. REYES, BOARD CHAIR

ATTEST:



STEVEN W. GILKEY, SECRETARY/TREASURER