

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY'S CODE OF ORDINANCES ESTABLISHING A FRANCHISE REQUIREMENT FOR PROVIDING EMERGENCY SERVICES WITHIN THE CITY LIMITS OF PFLUGERVILLE; PROVIDING FOR A PENALTY FOR VIOLATION THEREFORE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Tx Const Art. 11, § 5 and Tex. Loc. Gov't Code Ann. § 51.072 provides that a home rule municipality has full power of local self-government; and

WHEREAS, a city's police powers extend to the reasonable protection of the public health, safety and welfare; and

WHEREAS, pursuant to its police power, a city is authorized to enact ordinances promoting the general welfare, health, or safety of the public in the use of public facilities; and

WHEREAS, the legislative body of a home rule city is vested with broad discretion in deciding questions properly within the scope of a city's police power; and

WHEREAS, the Texas Transportation Code Section 311.071 provides to a home rule municipality the exclusive authority over the use of a public street or alley of the municipality; and

WHEREAS, the Texas Local Government Code Section 54.004 provides to a home rule municipality the authority to enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants;

WHEREAS, it is within a city's police powers and exclusive grant of authority over its public streets to grant a franchise for the use of its streets; and

WHEREAS, the City of Pflugerville, Texas is a home-rule City acting under its charter adopted by the electorate pursuant to Article IX, Section 5 of the Texas Constitution, Chapter 9 of the Local Government Code and the authority granted under Texas Transportation Code Section 311.071; and

WHEREAS, the City Council hereby finds and determines that is prudent, reasonable and in the best interests of its citizens to ensure that emergency services to be provided within the City's jurisdictional limits meet the needs of its citizens; and

WHEREAS, the City Council hereby finds and determines that is prudent, reasonable and in the best interests of its citizens to require all emergency services provides apply for and be granted a franchise in order to provide emergency services within the City's jurisdictional limits; and

WHEREAS, the City Council finds that the adoption of the proposed amendments to the City's Code of Ordinances as provided for herein promotes the health, safety, and general welfare of the citizens of Pflugerville and is adopted for the purpose of protecting the health, life, and property of its citizens and to preserve the good government, order, and security of the City of Pflugerville and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE THAT:

Section 1. Findings. 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. Code Amended. That the City's code of ordinances be amended to create Chapter 13 titled "Emergency Services Franchise Required" as follows:

CHAPTER 13 Emergency Services Franchise Required

ARTICLE I. IN GENERAL

Sec. 13.01. Definitions.

For the purpose of this chapter, the words and phrases listed below shall have the following meanings:

Emergency medical service (EMS). The provision of basic or advanced life support and transportation of patients to an emergency room of a hospital for emergency pre-hospital care.

Emergency pre-hospital care. Care provided to the sick or injured either on the scene or during emergency transport to an emergency room at a hospital or a facility providing emergency medical care.

EMS provider. The entity under contract with the city that provides EMS services to residents of the city.

Non-emergency ambulance transfer service. The operation of a service to transport patients for non-emergency, previously scheduled, medical treatment from a point originating and terminating within the city limits. The transport of a patient for unscheduled medical treatment or evaluation at an emergency room at a hospital or a facility providing emergency medical care is not a non-emergency ambulance transfer service, but rather is the provision of EMS.

Originates. For purposes of this chapter, a call for EMS services "originates" within the city limits if the person in need of EMS service (emergency pre-hospital care or

emergency ambulance transfer service) is physically located at an address within the city limits.

Sec. 13.02. Use of emergency and transfer service.

All calls for EMS that originate within the city limits shall be responded to solely by the city's first responders and the city's contracted EMS provider, except as provided herein.

Sec. 13.03. EMS and non-emergency ambulance transfer service.

It shall be unlawful for any person or service to furnish, operate, advertise or otherwise engage or profess to be engaged in the service or operation of EMS or non-emergency ambulance transfer service that originates at an address within the city unless said person or entity is:

- (a) Rendering assistance to patients in case of a major catastrophe or emergency with which the licensed ambulances of the city are unable to cope; or
- (b) Transporting a patient who is picked up from a location beyond the limits of the city and transported to a location within the city; or
- (c) Transporting a patient who is picked up from a location beyond the limits of the city and transported to a location beyond the limits of the city and only incidentally passing through the city; or
- (d) Transporting a patient who is picked up from a location within the city limits and transported to a location beyond the limits of the city; or
- (e) Operated by an agent or employee of the federal or state government if such service is done in performance of his official duties.

Sec. 13.04. Stand-by and special events coverage.

EMS or non-emergency ambulance transfer service shall not include any stand-by or special events coverage within the limits of the city, but only if said stand-by or special events coverage does not result in any patient transfer within the limits of the city. If any stand-by or special events coverage results in patient transfer within the limits of the city, it is considered EMS or non-emergency ambulance transfer service for purposes of this chapter and regulated herein.

Upon request by law enforcement and fire department officers, the EMS provider shall furnish ambulance stand-by coverage at emergency incidents involving a potential danger to the personnel of the requesting agency or the general public.

Secs. 13.05 – 13.20. Reserved.

ARTICLE II. FRANCHISE REQUIRED

Sec. 13.21. Franchise required.

It shall be unlawful for any person to furnish, operate, advertise or otherwise engage or profess to be engaged in the operation of EMS or non-emergency ambulance transfer service from a point originating and ending within the streets of the city without a franchise as provided by this article.

Sec. 13.22. Franchise application; requirements.

Applications for an EMS and non-emergency ambulance transfer service franchise may be solicited by the city through a request for proposals from time to time as deemed necessary by the city to ensure appropriate emergency services are being provided within its jurisdictional limits. The requirements and selection criteria will be included in any request for proposals initiated by the city.

Sec. 13-23. Rates.

Any person who uses the ambulance services of the city's franchise holder shall be charged for such services. The franchise holder may from time to time adjust certain rates if/as allowed by the contract or by filing an application with the city secretary for consideration of the city council.

The city council hereby expressly reserves the right, power, and authority under any franchise granted, to review the charges for the services of the franchise holder to its customers, fully reserving to the city council all the rights, powers, privileges, and immunities, subject to the duties, limitations and responsibilities which the Constitution, the laws of the state, and the charter confer upon the city.

Sec. 13-24. Term.

A franchise granted under this shall not exceed a period of twenty-five (25) years.

Section 3. Penalty. A violation of this Ordinance shall be a Class C Misdemeanor with a fine amount not to exceed \$2,000.00.

Section 4. Conflicts and Savings. That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and that the Code of Ordinances of the City of Pflugerville, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Section 6. Severability. If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

Section 7. Effective Date. This Ordinance will take shall take effect on January 1st, 2022.

PASSED AND APPROVED this _____ day of _____ 2021.

CITY OF PFLUGERVILLE, TEXAS

By: _____
Victor Gonzales, Mayor

ATTEST:

Trista Evans, City Secretary

APPROVED AS TO FORM:

Charles Zech, City Attorney
Denton Navarro Rocha Bernal & Zech, PC