

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, ADDING ARTICLE III, “AMBULANCE SERVICES” TO CHAPTER 34 EMERGENCY SERVICES, OF THE CODE OF ORDINANCES, CITY OF BRYAN, TEXAS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLICATION; PROVIDING FOR A PENALTY; FINDING AND DETERMINING THAT THE MEETING AT WHICH THE ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bryan Fire Department provides fire suppression, rescue, and emergency medical services (EMS) to its citizens and is the primary provider of emergency medical transport in the territorial limits of the City of Bryan, (“City”); and

WHEREAS, the City of Bryan Fire Department is staffed with trained professionals who are equipped to handle a variety of emergencies, including structural fires, medical emergencies, and various rescue operations and it plays a crucial role in safeguarding the community, working closely with other local agencies to ensure a prompt and coordinated response to emergencies; and

WHEREAS, there is also a need for non-emergency medical transport for individuals who need medical care or treatment but are unable to use private or public transportation due to illness, injury, or other infirmity and while there are third-party ambulance services that can provide these services, many individuals are using Bryan EMS to preform non-emergency medical transport; and

WHEREAS, the City Council finds the cost of providing non-emergency medical transport far exceeds the amount the City is able to recover, meaning that shifting the burden of non-emergency medical transport to EMS is a financial burden to taxpayers; and

WHEREAS, there are a substantial number of unnecessary “lift assist” calls, where Bryan Fire Department personnel are called upon to help lift patients who have fallen, are not injured, and need assistance back into bed despite the fact there are, or should be, sufficient private personnel to perform the lift assist without EMS involvement; and

WHEREAS, the City Council finds there are a number of businesses serving seniors, specifically nursing homes and similar residential facilities, which are tying up EMS units on non-emergency medical transports and unnecessary lift assists, which increases the burden on EMS, reduces response time for emergency calls, and puts public health and safety at risk; and

WHEREAS, the City Council determines it is a public nuisance to place public health and safety at risk by frequently requesting EMS units to perform non-emergency medical transports and lift assists when such services can and/or should be provided by private parties; and

WHEREAS, the City Council determines this ordinance will substantially reduce the burden on taxpayers and protect public health and safety by freeing up EMS units to respond to emergencies.

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

1.

Article III – Ambulance Services, is added to the Bryan Code of Ordinances, Chapter 34 – Emergency Services, and reads as follows:

Chapter 34 - EMERGENCY SERVICES
ARTICLE III. – AMBULANCE SERVICES

Sec. 34-30. - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ambulance means a motor vehicle used, designed or redesigned, and equipped for the primary purpose of rendering emergency medical care and/or the transportation of sick or injured persons and approved as such by the Texas Department of Health Services.

Bryan EMS means the City of Bryan Fire Department Emergency Medical Services Division.

Bryan Fire Department or Department means the City of Bryan Fire Department as a whole, including divisions other than, or in addition to, the Bryan EMS division.

Dispatch means the Brazos County 9-1-1 Bryan Fire and Police Dispatch.

Emergency Ambulance Service means the provision of Emergency Medical Care and transportation of a patient to a hospital under Emergency Circumstances.

Emergency Circumstance means the existence of circumstances in which the element of time in expeditiously rendering emergency medical care and 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 emergency medical care or both at the place of emergency and/or during transportation to a hospital may be essential to the health or life of such person.

Emergency Medical Care means immediate and essential assessments, life-saving medical interventions, and treatments administered by certified emergency medical technicians and paramedics, designed to preserve life and prevent further harm and stabilize a person's condition during an emergency.

Emergency Response or Code 3 Response means the operation of an emergency response vehicle with visual (lights) and auditory (siren) warning devices working while providing Emergency Medical Care or Emergency Ambulance Service.

Facility means an institution subject to licensure under Texas Health and Safety Code.

Lift Assist means a situation where first responders are called upon to assist with the handling or movement of a resident who is not in need of emergency medical treatment or transport.

Non-Emergency Medical Transport or NEMT means a trip made by an ambulance to transport a non-ambulatory, sick, or injured individual from place to place under conditions that are not Emergency Circumstances.

Person means an individual, partnership, firm, association, company, or corporation.

Resident means an individual who resides in a Facility.

Sec. 34-31. - Emergency Ambulance Service; government function declared.

- (a) The operation of Ambulances on the streets of the City for furnishing of Emergency Ambulance Service is hereby declared to be a governmental function of the City to be performed, primarily but not exclusively, by Bryan EMS in accordance with the guidelines set forth by its medical director.
- (b) The primary function of Bryan EMS is to provide Emergency Medical Care and/or Emergency Ambulance Services. Interference with this purpose is a detriment to public health and safety.

Sec. 34-32. – Non-Emergency Medical Transport.

- (a) Each Facility operating in the City limits is obligated to provide its Residents with access to Non-Emergency Medical Transport as reasonably needed to transport from the Facility to a hospital or other medical provider. A Facility shall provide NEMT directly or through third parties, and may not, as a matter of policy or practice, use Bryan EMS to provide NEMT.
- (b) Bryan EMS may refuse to provide an NEMT that originates from a Facility.
- (c) Bryan EMS may refuse to provide an NEMT for a Person who does not require an Ambulance, i.e., ambulatory or is able to use other means of transportation.
- (d) If an NEMT request originates from a home-bound patient not residing in a Facility, Bryan EMS may require prior authorization from their insurance provider or from Medicare, before providing an NEMT, or may refuse to provide an NEMT.

Sec. 34-33. – Safe handling of residents.

- (a) Each Facility must provide for sufficient staff to perform safe handling and movement of Residents without the assistance of Bryan Fire or EMS employees except in the case of an Emergency Circumstance requiring medical treatment and/or transport.
- (b) Each Facility required to have a safe handling and movement policy under Texas Health and Safety Code Chapter 256, as may be later re-codified or amended, may not include within that policy:
 - 1. a provision that prohibits Facility employees/agents from moving or handling Residents without assistance from Bryan Fire or EMS personnel; or
 - 2. a provision that requires Facility employees/agents to request a Lift Assist from Dispatch.
- (c) Bryan EMS may refuse to provide a Lift Assist if there are sufficient Facility personnel to perform the Lift Assist and the Resident is not in danger or unreasonable discomfort.

Sec. 34-34. – False claim of emergency.

- (a) It is a violation of this Chapter if a Person requests an Emergency Response on behalf of a Resident in order to induce:
 - 1. Bryan EMS to perform an NEMT, or

2. Bryan Fire or EMS personnel to perform a Lift Assist.

- (b) It is a prima facie case that a Person violated subsection (a) if Bryan Fire or EMS personnel respond to the request and Emergency Circumstances do not exist when Bryan Fire or EMS personnel arrive on scene.
- (c) It is an affirmative defense to a violation of subsection (a) that Emergency Circumstances existed at the time of the request and the situation improved prior to Bryan Fire or EMS arrival.
- (d) It is not a defense under this section that an NEMT was
 - 1. performed, or
 - 2. refused.

Sec. 34-35. – Nuisance declared.

- (a) The abuse of Bryan EMS and Fire resources and personnel for situations that do not meet the Emergency Circumstances definition is deemed to be a nuisance because it endangers public health. Because Facilities frequently request NEMT services and/or personnel to perform safe handling and movement of Residents/patients, it is an abuse of Bryan EMS and Fire resources and personnel to rely on them to meet those needs. Facilities have an obligation to meet their own financial obligations without transferring the burden to the City's taxpayers.
- (b) When Facilities rely on City personnel to provide Lift Assists and NEMTs because it is less expensive than ensuring those services are provided by the Facility or private third parties, it does not meet the Emergency Circumstance definition and will be considered a nuisance.
- (c) To ensure the City's resources are available to serve their primary purpose of providing Emergency Ambulance Service, Facilities are required to ensure calls that do not meet the Emergency Circumstance definition do not require Bryan Fire Department and Bryan EMS time and resources.
- (d) Regardless of circumstances, in the event Bryan Fire Department or Bryan EMS personnel Perform a Lift Assist or an NEMT originating at a Facility, the Person who operates the Facility has violated this Chapter.
- (e) It is a violation of this Chapter for a Facility to operate without one or more appropriately staffed ambulances capable of providing an NEMT, or in the alternative, an agreement with a third party provider who will provide that service for the Facility's residents.

2.

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

3.

The City Secretary is directed to publish this ordinance in a newspaper of general circulation in the City of Bryan in compliance with the provisions of the City Charter, which publication shall be sufficient if it contains the title of this Ordinance, the penalty provided therein for violation thereof, and the effective date of the ordinance.

4.

A person who violates any section of this Ordinance is guilty of a misdemeanor and upon conviction is punishable in accordance with Section 1-14 of the City of Bryan Code.

5.

The Code of the City of Bryan, Texas, as amended, shall remain in full force and effect, save and except as amended by this Ordinance.

6.

Should any section, paragraph, sentence, clause, phrase, or word of this Ordinance be declared unconstitutional or invalid for any purpose by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby and to this end the provisions of this Ordinance are declared to be severable.

7.

It is hereby found and determined that the meeting at which this Ordinance was passed was open to the public, as required by Section 551.001 et seq., Texas Government Code, and that advance public notice of time, place, and purpose of said meeting was given.

8.

It is the intention of the City Council that this Ordinance shall become a part of the Code of the City of Bryan, Texas, and it may be renumbered and codified therein accordingly.

9.

This Ordinance will be effective after its passage and publication as required by law. The effective date of this Ordinance shall be _____ 2024.

PASSED, ADOPTED, AND APPROVED the ___ day of _____, 2024, at a regular meeting of the City Council of the City of Bryan, Texas, by a vote of _____ yeses and _____ noes.

CITY OF BRYAN:

ATTEST:

Bobby Gutierrez, Mayor

Mary Lynne Stratta, City Secretary

APPROVED AS TO FORM:

Thomas A. Leeper, City Attorney