

**AMBULANCE DISTRICT ORDINANCE # 14-03
APPLICANTS FOR LETTER OF ENDORSEMENT**

AN ORDINANCE OF THE JOHNSON COUNTY AMBULANCE DISTRICT OF MISSOURI TO SET FORTH 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 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 proposed 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 ORDAINED BY THE BOARD OF DIRECTORS OF THE JOHNSON COUNTY AMBULANCE DISTRICT OF MISSOURI, AS FOLLOWS:

Section I. Definitions:

- A. Ambulance Service: any person or entity that provides emergency or non-emergency medical transportation and services pursuant to Chapter 190, RSMo and the rules promulgated by the Missouri Department of Health pursuant to Chapter 190, RSMo;
- B. Applicant: the individual or entity applying to the Johnson County Ambulance District of the letter of endorsement;
- C. Board: the Board of Directors of the Johnson County Ambulance District;
- D. County: Johnson County, Missouri;
- E. District: Johnson County Ambulance District, political subdivision ; the service area in which the District is empowered to operate;
- A. EMS Chief: the chief executive officer of the Johnson County Ambulance District empowered pursuant to this Ordinance to carry out the wishes of the Board;

**AMBULANCE DISTRICT ORDINANCE # 14-03
APPLICANTS FOR LETTER OF ENDORSEMENT**

Section II. Authority & Duties of the EMS Chief:

- A. Authority to promulgate Procedures for Ordinances.
 - 1. The EMS Chief shall have authority to promulgate Procedures they deem necessary to implement the policy and intent of this Ordinance. The Procedures shall be approved by the Board.
 - 2. The EMS Chief shall have authority to receive all applications from Applicants for a letter of endorsement. Such application forms shall be prescribed by the EMS Chief in accordance with the Procedures.
 - 3. The EMS Chief 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 EMS Chief:
 - 1. Review each letter of endorsement application for conformance with this Ordinance, all Procedures promulgated pursuant hereto, and any other Ordinance(s) of the District applicable to Applicant.
 - 2. Schedule the public hearing required by RSMo § 190.109.3 and shall provide public notice of the public hearing.
 - 3. Issue a recommendation to the Board whether the Applicant should receive a letter of endorsement or rejection of the request for the letter of endorsement.

Section III. Application Processing Procedures:

- A. Upon receipt of an application for a letter of endorsement, the EMS Chief 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.
- B. 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 and the public regarding the Applicant.
- C. Following the public hearing the EMS Chief 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.
- D. At the next regularly scheduled meeting of the full Board the Board shall consider the EMS Chief's recommendation. The Board shall decide to either accept the EMS Chief's recommendation or reject the EMS Chief's recommendation and replace said findings with its own. A majority vote of the Board is necessary to accept or reject the EMS Chief's recommendation.
- E. If a majority of the Board votes to accept the EMS Chief's recommendation, the Board shall issue a resolution as to the findings. The Board shall send a copy of the resolution to the Bureau of Emergency Medical Services at the Missouri Department of Health and Senior Services.
- F. 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 seven (7) days of such decision by filing a written appeal to the Board setting forth grounds upon which it feels the Board has erred.

**AMBULANCE DISTRICT ORDINANCE # 14-03
APPLICANTS FOR LETTER OF ENDORSEMENT**

- G. Upon receipt of a non-contested case hearing, the Board shall set the hearing for the next regularly scheduled meeting of the full Board. The Board shall give written notice of such hearing to the Applicant and all other persons or entities that appeared and spoke at the public hearing.
- H. The non-contested case hearing before the Board shall be informal in nature.
- I. The Board shall have forty-five (45) days from the date of the non-contested case hearing to issue its findings.
- J. 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 Bureau of Emergency Medical Services at the Missouri Department of Health and Senior Services.
- K. 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.

Section 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 EMS Chief, 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.
 - 1. 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.
 - 1. 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;
 - 1. 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;
 - 1. 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

**AMBULANCE DISTRICT ORDINANCE # 14-03
APPLICANTS FOR LETTER OF ENDORSEMENT**

- E. The Applicant must demonstrate the financial resources necessary for the operation of the proposed ambulance service.
 - 1. 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 current District Licenses Ambulance Service(s), or will not be met by the current District Licenses Ambulance Service(s) within a reasonable period of time.
 - 1. Included in the foregoing, but the foregoing is not limited hereto, the Applicant must comprehensively describe the effect of granting a District license to the Applicant will have on the current District licenses Ambulance Service(s). This description will include the financial impact upon the District Ambulance Service(s) and how this will affect their current ambulance rates and/or subsidies.
- G. Additional Information: Any information the EMS Chief 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 EMS Chief or 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 District licensed 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.

**AMBULANCE DISTRICT ORDINANCE # 14-03
APPLICANTS FOR LETTER OF ENDORSEMENT**

- 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.
1. Although the EMS Chief shall not be permitted to vote, during the deliberation process the EMS Chief shall be permitted to give his or her opinion to the Board as to whether the Applicant has carried its burden of proof.
 2. 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 Bureau of Emergency Medical Services 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 Johnson 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 Bureau of Emergency Medical Services at the Missouri Department of Health and Senior Services invalid and unenforceable within the District.

Section VIII. Violations and Penalties:

- A. It shall be unlawful, within the jurisdiction of the District:
1. for any individual to perform duties as a EMT or EMT-P for an ambulance service without a valid ambulance service license issued by the Bureau of Emergency Medical Services at the Missouri Department of Health and Senior Services
 2. for any ambulance service to use or cause to be used any ambulance without a valid ambulance service license issued by the Bureau of Emergency Medical Services at the Missouri Department of Health and Senior Services

**AMBULANCE DISTRICT ORDINANCE # 14-03
APPLICANTS FOR LETTER OF ENDORSEMENT**

3. for any ambulance service to provide ambulance services, either emergency or non-emergency without a valid ambulance service license issued by the Bureau of Emergency Medical Services at the Missouri Department of Health and Senior Services

B. Penalties:

1. Any person convicted of violating the provisions of this Ordinance shall be fined an amount not exceeding one thousand dollars (\$1,000) or imprisonment for a period not exceeding thirty (30) days or by both such fine and imprisonment, for each offense.
2. Pursuant to Chapter 190 s 190.180, RSMo, the Attorney General of Missouri shall have concurrent jurisdiction with the prosecuting attorney of the District to prosecute persons in violation of Chapter 190, RSMo, or this Ordinance, and the Attorney General or prosecuting attorney may institute injunctive proceedings against any person operating an ambulance service in violation of Chapter 190, RSMo or this Ordinance.
3. This remedy does not serve to limit any other remedies available to the District in law or equity.

Section IX. 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 of Directors.

Section X. 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 XI. Interpretation of Ordinance:

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 any and all other District ordinance, which governs the criteria for issuance of a District license to operate ambulance services within the District's service area and compliance with any other applicable ordinance or resolution without which prohibits the operation of an ambulance service within the District's service area; Thus, prior to operating ambulance services within the District's service area, the Applicant must comply with the terms of all other applicable District ordinances and have a valid and enforceable license from the Bureau of Emergency Medical Services at the Missouri Department of Health and Senior Services.

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AMBULANCE DISTRICT ORDINANCE # 14-03
APPLICANTS FOR LETTER OF ENDORSEMENT

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ENDORSEMENT ADOPTED ON THIS 17TH DAY OF APRIL IN THE YEAR OF 2014.

/s/ Ray Patrick
Signature of Board President

Ray Patrick
Printed Name of Board President

ATTEST:

/s/ Mary Kidd
Signature of Board Secretary

Mary Kidd
Printed Name of Board Secretary