

ORDINANCE NO. 2005-22

AN ORDINANCE PROVIDING FOR THE GRANTING OF AN EXCLUSIVE FRANCHISE FOR THE PROVISION OF EMERGENCY MEDICAL SERVICES AND AMBULANCE OPERATIONS WITHIN THE CITY OF CLINTON, ARKANSAS AS A NECESSARY PUBLIC SERVICE AND UTILITY, SUBJECT TO REGULATIONS BY THE CITY OF CLINTON, ARKANSAS AND PROVIDING FOR THE FRANCHISING, REGULATION, LICENSING, AND OPERATION OF SAID PUBLIC SERVICE BUSINESS WITHIN THE CITY LIMITS; PROVIDING PENALTIES FOR THE VIOLATION OF SAME; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, the State of Arkansas, pursuant to Ark. Code Ann. § 14-266-102(a)(1), has determined that it may be desirable for cities of the first and second class to franchise and regulate emergency medical services, technicians, emergency and non emergency ambulances and companies and all aspects determined by the city to be proper, and;

WHEREAS, the City of Clinton, Arkansas, has determined that it is appropriate to exercise the authority granted to it by the State in order to provide for the health, safety and welfare of the citizens of the City of Clinton, and;

WHEREAS, the City Council of the City of Clinton has determined that the parameters and rules regarding the exercise of this authority by the City of Clinton needs to be formalized into an ordinance, and;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLINTON, ARKANSAS, AS FOLLOWS:

Section 1: That from and after the effective date of this ordinance, the business of transporting persons within the City of Clinton, Arkansas, by motor ambulance, whether by the providing of emergency medical services or the providing of medical transfer services including the operation of a motor ambulance, be and the same is hereby declared to be a necessary public utility service subject to regulations and franchising by said city; and after said date any permit, license, or certificate heretofore granted to any person, firm or corporation, whether non-profit or for business, to operate an ambulance service within said city shall be deemed revoked and the ownership and operation thereof shall be unlawful, unless all such persons, firms, or corporations shall first comply with the provisions of this ordinance as hereinafter set forth and pursuant to Arkansas Code Annotated Chapter 266 Municipal Ambulance Licensing Sections 14-266-101 to 110.

Section 2: Definitions: The following words and phrases as used in this ordinance shall, for the purposes of this chapter, have the following meaning:

(a) AMBULANCE means any motor vehicle that is constructed or equipped for and intended to be used for transportation of a person because of his or her illness, injury, or disability.

(b) AMBULANCE BUSINESS means the owning, operating, managing, or maintaining as principal or agent of any ambulance as defined herein, for compensation; so that the owning, operating, managing, or maintaining as principal or agent of a special purpose ambulance within

industry and not receiving compensation therefore is not considered an ambulance business.

(c) OPERATION means the receiving, picking up or embarking within the City of Clinton, Arkansas, of a sick or injured person for transportation or conveyance to any point within or without the City of Clinton, Arkansas and the providing of emergency medical services to those persons.

(d) PERSON means individuals either male or female, partnerships, firms, corporations (whether non-profit or for profit) and association of every kind, and their agents, servants or employees.

(e) AMBULANCE OPERATOR shall mean any person or board who, as owner, agent, or otherwise, furnishes or operates, advertises or otherwise professes to be engaged in the business of furnishing or operating ambulances in providing the ancillary and necessary emergency medical services or medical transfer services.

SECTION 3: No person shall engage in the ambulance business within the City of Clinton, Arkansas without first obtaining a franchise therefore from the City Council as hereinafter provided. A franchise to operate an ambulance business shall be issued for a period not to exceed five (5) years. Renewal of any franchise granted hereunder, upon expiration for any reason or after revocation, shall require conformance with all the requirements of this ordinance and state law as upon the original grant of this franchise and license. No person, firm or business entity of any kind may offer or provide intracity ambulance service of any kind or provide any intercity ambulance service of any kind that originates within the city limits of Clinton without having first obtained a franchise.

SECTION 4: The City Council of Clinton, Arkansas may grant an exclusive franchise for the privilege, of using the streets, alleys, public ways and public grounds of said city for the purpose of operating an ambulance business for the inhabitants of and all other persons within said city, which said franchise shall require that said ambulance service, including

emergency ambulance service, must be maintained continuously during all hours.

SECTION 5: Said franchise shall be granted only upon written application therefore filed with the City Clerk of the City of Clinton, Arkansas, and shall be granted only when the City Council of the City of Clinton, Arkansas, in its discretion, shall determine that the public convenience and necessity requires the issuance of same; and to determine such public convenience and necessity, of the City Council may hold such hearings and in such manner as hereinafter provided.

SECTION 6: Said franchise may be granted upon such terms and at such rates as said City Council shall determine and such terms and rates shall be included as a part of any franchise granted under this ordinance.

SECTION 7: No franchise shall be granted to any person who is not the actual bona fide owner, or bona fide operator, thereof and who is not fully responsible for the operations of said business.

SECTION 8: No franchise shall be granted to any person who does not provide bona fide advanced life support (ALS) or paramedic service as part of all of its ambulance business, said ALS service to be licensed by the Arkansas Department of Health, so that all emergency transportation shall be done so that a certified paramedic is present. Further as appropriate and based on medical protocols all non-emergency transportation is provided by either an ALS ambulance, Intermediate ambulance or Basic ambulance with either a paramedic, EMT-Intermediate, or EMT-Basic present respectively.

SECTION 9: No franchise shall be granted to any person whose ambulance operation is not located in the City of Clinton, Arkansas, or at a location approved by the Clinton City Council including crew quarters and appropriate facilities for ambulances, medical supplies, and medical equipment.

SECTION 10: In granting a franchise the City Council shall consider as the utmost criteria the quality of services to be provided to the citizen's of Clinton, Arkansas. Included in the consideration of quality shall be the quality of the equipment, the level of service to be given, response time standards, the rates charged, the systems in place for quality review and improvement of patient care, the level of involvement of the Medical Director, the quality and number of certified paramedics and any other necessary personnel to be provided, the overall staffing to be provided, the personnel practices in effect, the preparedness and participation in disaster or mass casualty response and evidence of quality so that accredited ambulance businesses shall be given a preference.

SECTION 11: No permit issued under the terms of this ordinance shall be sold, transferred, assigned, leased or otherwise disposed of without the written approval of the City Council.

SECTION 12: Before the City Council shall grant any franchise hereunder, as a minimum requirement the owner or operator of said business applying for same shall deposit with the City Clerk of said city, and keep in effect at all times, a policy of liability insurance issued by a responsible insurance company or companies duly authorized and licensed to transact such business in the State of Arkansas, insuring the owner, operator and any and all persons driving any vehicles of said permittees as follows: Against liability up to and including One Million Dollars (\$1,000,000.00) for personal injuries or death as to one occurrence and up to and including Two Million Dollars (\$2,000,000.00) on account of any accident resulting in personal injuries or death on more than one occurrence.

SECTION 13: Each person issued a franchise hereunder shall pay to the City of Clinton, Arkansas, for the privilege of so engaging in said business an annual license fee, the amount of which shall be One Hundred Dollars (\$100.00) per year, which shall be paid at the time of the granting of said franchise and on the same date of each succeeding year during the term for which said franchise shall have been granted, provided, however,

that no franchise shall be terminated for failure to pay a fee unless the City Clerk grants ten (10) days notice to the franchisee.

SECTION 14: Any person desiring to obtain a franchise to operate an ambulance business shall make application therefore upon forms available from the office of the City Clerk or in a form that indicates compliance with all sections of this ordinance. Each application shall be accompanied by a policy of insurance in the amount provided for by this ordinance.

SECTION 15: A franchise may be revoked by the City Council upon the following grounds:

(a) The franchise holder knowingly and after written notice from the city fails to operate his business in accordance with the provisions of this ordinance and any and all state or federal laws, regulations, requirements, or accreditation standards applicable to the emergency medical services or ambulance business or operation including the lack of certified paramedics as required hereinabove.

(b) The franchise holder shall abandon its operations of the ambulance business for a period of one (1) or more days. Acts of God, labor disputes, and other acts beyond the control of the franchise holder which cause abandonment or limitation of service shall not be considered abandonment within the meaning of this section.

(c) The franchise holder has failed to render satisfactory service.

(d) The City Council shall hold a hearing after ten (10) days notice to the franchise holder before any suspension shall become effective.

(e) The franchise holder fails to comply with any provisions of the franchise ordinance.

SECTION 16: The ambulance business holding the franchise shall, before such franchise is issued, guarantee the City of Clinton, Arkansas uninterrupted ambulance service, except that by giving ninety (90) days notice to the city, such ambulance operator shall be authorized to discontinue service without penalty.

SECTION 17: Upon making application for a franchise, each ambulance operator shall submit a list of equipment to be carried in each ambulance. This list shall be subject to approval of the City Council at the time that the applicant's license is before the Council for consideration. The list shall be subject to review and approval annually and at the time of the renewal of the franchise; and shall be filed with the City Clerk. Each ambulance operated by the ambulance business or operation must be continually equipped according to the regulations and requirements of the Arkansas Department of Health.

SECTION 18: An ambulance carrying a patient afflicted with contagious or infectious disease and the services therefore shall operate in accordance with the Federal OSHA requirements, Arkansas Department of Health, and Center for Disease Control standards in handling patients with contagious and infectious diseases.

SECTION 19: The ambulance business or operation shall also have and maintain a written policies and procedures manual which will include personnel, operational, and medical policies and procedures, and a copy of this or these manuals shall be made available for inspection upon request by the Clinton City Council or by the Mayor of Clinton. The ambulance business or operation shall thereafter operate in accordance with its policies and procedures manual or manuals.

SECTION 20: Any person who shall fail to comply with any or all of, or who shall violate, the provisions of this ordinance shall be deemed guilty

of a violation, and upon conviction shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), and these penalties shall occur per violation, a violation to be considered per unauthorized ambulance run or operations.

SECTION 21: The provisions of this ordinance shall not apply to any person engaged in rendering an ambulance operation whose place of business, operation, and vehicles are located in another municipality and whose ambulances transport persons or patients in or through the City of Clinton, Arkansas so long as this transportation or business originates in a location outside the limits of Clinton, Arkansas; and, furthermore, the provisions of this ordinance shall not apply to any ambulance business or operation whose place of business and vehicles are located in another municipality even if engaged in rendering emergency medical services if the franchisee has waived the rights granted under its franchise and authorized any such other ambulance business or operation to render such emergency services within Clinton, Arkansas, such as in cases of rendering of mutual aid during mass casualty or disaster response and when requested by the franchised ambulance operator.

SECTION 22: The standards, rules, regulations, and requirements established by the State of Arkansas concerning emergency medical services, emergency medical technicians, paramedics, emergency and non-emergency ambulances, and ambulance companies as set forth by the Arkansas Department of Health Office of Emergency Medical Services and Trauma Systems are hereby incorporated with this ordinance by reference.

SECTION 23: The City Council of Clinton, Arkansas, shall have, possess, and exercise all of those powers that could be granted to an emergency medical services board and may perform those responsibilities or may delegate certain or said powers to the board of directors of the ambulance business if a nonprofit organization operated for the public benefit according to Chapter 33.

The Arkansas Nonprofit Corporation Act of 1993, Arkansas Code Annotated. If the City Council decides to delegate such powers to a board of directors, then the delegation will only occur after the City has been provided with a means of insuring the City's participation on said board.

SECTION 24: The City of Clinton, Arkansas is to require that all "911" calls or referrals be sent directly to the franchisee or ambulance business or operation so that a person calling "911" will have their telephone calls transferred directly to said franchisee, ambulance business or operator.

SECTION 25: The various provisions and parts of this ordinance are hereby declared to be severable, and, if any section or part of a section, or any provision or part of a provision herein, is declared unconstitutional, inappropriate, or invalid by any court of competent jurisdiction, such holding shall not invalidate or affect the remainder of this ordinance.

SECTION 26: It having been found and determined that inadequate emergency ambulance service within the city limits of Clinton, Arkansas, will result in a condition menacing to the public peace, health and safety, and therefore, an emergency exists and this ordinance being necessary for the immediate preservation of said public peace, health and safety, same shall be in full force and effect from and after its passage and approval.

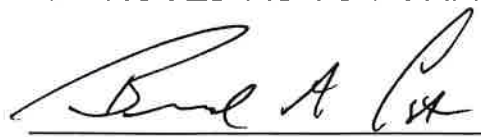
PASSED: October 25, 2005

ATTEST:


Chip Ellis, Mayor


Merl Eoff, Recorder/Treasurer/Clerk, CMC

APPROVED AS TO FORM:


Brad A. Cazort, City Attorney