

**CITY OF DANA POINT
AGENDA REPORT**

Reviewed By:	
DH	___
CM	<u> X </u>
CA	___

DATE: JUNE 23, 2004

TO: CITY MANAGER/CITY COUNCIL

FROM: MIKE ROSE, EMERGENCY SERVICES COORDINATOR

SUBJECT: ADOPTION OF AMBULANCE SERVICE ORDINANCE

RECOMMENDED ACTION:

That the City Council consider amending Municipal Code, Chapter 5.24, "Ambulance Service", by conducting a second reading by title only, and adopting the attached Ordinance:

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING IN ITS ENTIRETY CHAPTER 5.24 OF THE DANA POINT MUNICIPAL CODE AND ESTABLISHING NEW GENERAL OPERATING PROCEDURES AND STANDARDS FOR AMBULANCE TRANSPORTATION AND SERVICES WITHIN THE CITY"

ISSUES:

The City's Ambulance Service regulations are out of date and should be updated to maintain accuracy and consistency among other member cities within the jurisdiction of the Orange County Fire Authority.

BACKGROUND:

On May 26, 2004, the City Council approved the Introduction and First Reading of this municipal code amendment ordinance.

Based on a recent review of their records, the Orange County Fire Authority discovered that the County's Model Ambulance Ordinance, adopted in 1985, was badly out of date. They also found significant inconsistencies in the ordinance language adopted by the member cities. Given the delay in the update to the County's ordinance and the possibility of legal challenges to the final selection and award of the ambulance service contracts, the OCFA is particularly concerned about inconsistencies in the member city ordinance language relating to approval authorities. These inconsistencies relate to the

authority to set the maximum Advanced Life Support (ALS) Rate, authority to conduct the competitive process, and authority for the selection and award of contracts.

DISCUSSION:

To protect against legal challenges, the OCFA General Counsel has requested that each member city replace its current ordinance with the language used in the update OCFA model ordinance. This update provides consistent, system-wide language governing the authority for the setting of the ALS rate, administration of the competitive process, and award of contracts. This action is being initiated in time to bring the newly adopted ordinance into effect prior to the final execution of contracts with new ambulance service providers.

The last revision of this ordinance, Ordinance 98-02, ensured that the Dana Point Municipal Code was current and reflective of changes made to the OCFA model ordinance at the time. The changes being implemented by this action are focused on Section 5.24.120 establishing the Board of Supervisors as the governing body responsible for setting the County-wide BLS and ALS rates. Additionally, changes to Section 5.24.130 establish the OCFA as the agency responsible for managing the ambulance agreements and the selection process, unless the City has provided notification of its intent to retain this authority. Earlier this year, in preparation for the upcoming ambulance provider selection, the City Council voted to retain this selection authority, and written notification of this action was provided to the OCFA.

NOTIFICATION AND FOLLOW-UP:

FISCAL IMPACT:

None.

ALTERNATIVE ACTIONS:

- 1. None

ACTION DOCUMENTS:

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- A. [Ambulance Service Ordinance](#) 3

SUPPORTING DOCUMENTS:

- B. [Ambulance Service Ordinance \(Red-Line\)](#)..... 15

ACTION DOCUMENT A

ORDINANCE NO. 04-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING IN ITS ENTIRETY CHAPTER 5.24 OF THE DANA POINT MUNICIPAL CODE AND ESTABLISHING NEW GENERAL OPERATING PROCEDURES AND STANDARDS FOR AMBULANCE TRANSPORTATION SERVICES WITHIN THE CITY

THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 5.24 of the Dana Point Municipal Code is hereby repealed in its entirety and is replaced by the following:

Chapter 5.24

Ambulance Service

Sections:

- 5.24.010 Intent and purpose.**
- 5.24.020 Definitions.**
- 5.24.030 License required.**
- 5.24.040 Transfer and term of license.**
- 5.24.050 Applications.**
- 5.24.060 Investigations.**
- 5.24.070 Issuance or denial of license.**
- 5.24.080 License suspension or revocation.**
- 5.24.090 Appeal to Orange County Board of Supervisors.**
- 5.24.100 Notification.**
- 5.24.110 Personnel standards.**
- 5.24.120 Rates.**
- 5.24.130 Selection of ambulance service licensees for exclusive operating areas.**
- 5.24.140 Rules and regulations.**
- 5.24.150 Complaints.**
- 5.24.160 Variance.**
- 5.24.170 Violation – penalty.**

5.24.010 Intent and Purpose.

It is the intent of this chapter to establish general operating procedures and standards for medical transportation services operating within the City in both emergency and other situations, to provide a fair and impartial means of allowing responsible private operators to provide such services in the public interest, and to

provide a means for the designation of exclusive operating areas. This chapter is modeled after Division 9, Article I of Title 4 of the Codified Ordinances of the County of Orange (County Model Ambulance Ordinance No. 3517; OCC §4-9-1).

5.24.020 Definitions.

For purposes of this chapter, the following terms are defined:

a. Advanced life support service (“ALS”) and basic life support service (“BLS”) mean the same as defined in the California Health and Safety Code.

b. Ambulance means a motor vehicle, helicopter, or similar vehicle, specifically constructed, modified, equipped, or arranged and operated for the purpose of transporting patients requiring immediate or ongoing medical services excluding the transportation of such persons to or from locations not providing services as defined in this chapter.

c. Ambulance service means the activity, business or service, for hire, profit, or otherwise, of transporting one or more persons by ambulance; provided, however, ambulance service shall not include the transportation by ambulance by an employer of his or her own employees in an ambulance owned and operated by the employer solely for this purpose.

d. Ambulance service operator means any person who operates or owns an ambulance service.

e. Attendant means a trained, qualified individual who, regardless of whether he or she also serves as driver, is responsible for the care of patients.

f. County means the County of Orange, State of California.

g. City means the City of Dana Point, California.

h. Department means the Emergency Medical Services Agency of the County of Orange or the Health Care Agency of the County of Orange, or as otherwise designated by the Orange County Board of Supervisors.

i. Dispatcher means an individual employed by an ambulance service operator responsible for sending an ambulance to provide ambulance service to a patient.

j. Driver means an attendant who drives or pilots an ambulance.

k. Emergency means sudden, unforeseen event giving rise to a need for ambulance service with basic or advanced life support services and is a condition in which an individual has a need for immediate medical attention, or where the potential for such need is perceived by emergency medical personnel or a public safety agency.

l. Exclusive Operating Area (“EOA”) means the same as defined in Section 1797.85 of the Health and Safety Code, and which is established pursuant to Section 1797.224 of the Health and Safety Code.

m. Emergency service means ambulance service performed in response to an emergency.

n. Fire Chief means the Fire Chief of the Orange County Fire Authority.

o. Health Officer means the Orange County Health Officer or other official designated by the Board of Supervisors of Orange County to perform the Health Officer’s functions under this chapter.

p. Licensee means an ambulance service operator which has been granted a license under this chapter to provide ambulance service.

q. Medical services means services provided by health care professionals licensed pursuant to the California Business and Professions Code or as specified by regulations adopted pursuant to this chapter.

r. Paramedic means the same as defined in the California Health and Safety Code.

s. Patient means a wounded, injured, sick, invalid, or otherwise incapacitated person.

t. Person means any individual, firm, corporation, partnership, association, or other group or combination acting as a unit.

u. Physician means a medical doctor or osteopath holding the appropriate license or certificate to practice as such within the State of California pursuant to the Business and Professions Code.

v. Public safety agency means any public law enforcement agency, fire protection agency, or forest ranger operating in the County.

5.24.030 License required.

A. It shall be unlawful for any person to be an ambulance service operator, or to act in such a capacity either directly or indirectly, within the City without possession of a license issued pursuant to this chapter. A license may specify the specific geographical area within the City in which it is valid; provided, however, with respect to EOA’s, reference to the EOA by a specific number or similar identification shall be sufficient description of geographic limitation. A license shall be valid for not more than one calendar year or the expiration of the calendar year in which it was issued, whichever is shorter.

B. The provisions of this chapter shall not apply to:

1. Ambulances operated at the request of a public safety agency during any "state of war emergency," "state of emergency," or "local emergency," as defined in the Government Code.
2. Ambulance service transporting a patient from a location outside of the City regardless of destination.
3. Ambulance service transporting a patient by a fixed-wing airplane.

5.24.040 Transfer and term of license.

No license issued pursuant to this chapter can be transferred by operation of law or otherwise. The following shall be considered transfers for purposes of this Section:

- A. Any change in the business structure of a licensee, including, but not limited to, changes from or to:
 1. A sole proprietorship;
 2. A partnership, including any change in the partners; and
 3. A corporation, including any change in the shareholders, whether by operation of law or otherwise.
- B. Bankruptcy, an assignment for the benefit of creditors, or the appointment of a receiver.
- C. A sale or transfer of over ten (10) percent of the assets of a licensee.

A licensee may apply to the Health Officer for an amendment to the terms of the license, which request shall be processed in the same manner as an original application. Notwithstanding anything in this section to the contrary, licenses may be suspended, revoked, or terminated prior to the expiration date, pursuant to the provisions of this chapter.

5.24.050 Applications.

A. Each application for a license shall be accompanied by an application fee, if any, set by the Orange County Board of Supervisors, and be made upon forms prescribed by the Health Officer.

- B. Each applicant shall submit the following:
 1. The names and addresses of the applicant(s) and the owner(s) of the ambulance(s) and the business and any interest therein;
 2. The applicant's training and experience in the transportation and care of patients;

3. The names under which the applicant has engaged, does engage, and proposes to engage in ambulance service;
4. A description of each ambulance including the make, model, year of manufacture, vehicle identification number, current state license number, the length of time the vehicle has been in use, and the color scheme, insignia, name, monogram and other distinguishing characteristics of the vehicles, a description of the company's program for maintenance of the vehicle, and a description of the vehicle's radio(s);
5. Proof that the applicant has obtained all licenses and permits required by State or local law or regulation for the type of ambulance service proposed, excluding only a license to provide the service for which application is made;
6. The names and qualifications of each attendant, driver, or dispatcher employed, or to be employed, in providing ambulance service;
7. Proof that the applicant possesses and maintains currently valid California Highway Patrol inspection reports for each vehicle listed in the application;
8. A description of the applicant company's training and orientation programs for attendants, drivers, and dispatchers;
9. Evidence of such financial responsibility and insurance coverage as may be required by the Health Officer pursuant to regulations adopted in accordance with this chapter;
10. Identification of the geographical area to be served by the applicant, if required by the Department;
11. As to new applications or transfers as specified in Section 5.24.040 of this chapter, a fingerprint receipt for each principal of the applicant, issued by the Orange County Sheriff-Coroner indicating each principal of the applicant has undergone a complete criminal history check, followed by a report from the Orange County Sheriff-Coroner showing no conviction of crimes which would be violations of the provisions of Section 5.24.070(D)(2), (3), (4), (5), (6) or (7);
12. A list of all substations or offices where equipment and personnel are, or will be based, including hours of operation; and
13. A description of whether the service proposed by the applicant will include basic life support services or advanced life support service, and, if so:

- a. The number of basic life support service or advanced life support service units to be deployed on each shift;
 - b. The emergency response area(s) to receive basic life support service or advanced life support service; and
 - c. The provisions, if any, for continuing education of attendants.
14. Such other information as the Health Officer may require in regulations adopted pursuant to this chapter.
- C. Renewal applications shall be submitted in the same form and require the same materials as original applications, except the requirement of Section 5.24.050(B)(11).

5.24.060 Investigations.

Upon receipt of a completed application and the required fee, if any, the Health Officer shall make, or cause to be made, such investigation as the Health Officer deems necessary to determine if:

- A. The applicant is a responsible and proper person to conduct, operate, or engage in the provision of ambulance services;
- B. The applicant meets the requirements of this chapter and of other applicable laws, ordinances, or regulations.

5.24.070 Issuance or denial of license.

A. The Health Officer shall issue a license to an applicant if the Health Officer, after completing any investigation required pursuant to this chapter, determines all requirements of this chapter have been met and the license fee, if any, set by the Orange County Board of Supervisors, has been paid.

B. In the event of denial, the applicant shall be informed by the Health Officer in writing of the reasons therefore.

C. The licensee shall obtain and keep in force during the term of a license comprehensive automobile liability insurance and professional liability insurance issued by a company authorized to do business in the State of California, acceptable to the Health Officer, insuring the owner against loss by reason of injury or damage that may result to persons or property from negligent operation or defective construction of such ambulance, or from violation of this chapter or any other law of the State of California, or the United States. Said comprehensive automobile liability policy shall be in the sum of not less than \$500,000 for combined single limit, bodily injury and property damage. Said professional liability insurance shall be in the sum of not less than \$1,000,000 per person and \$1,000,000 annual aggregate or other liability coverage acceptable to the City and approved by the City Attorney and the City's designated risk manager..

Workers' compensation insurance shall be carried covering all employees of the license holder. Before the Health Officer shall issue a license, copies of the policies, or certificates evidencing such policies, shall be filed with the Health Officer. All policies shall contain a provision requiring a thirty (30) day notice to be given to the Department prior to cancellation, modification, or reduction in limits. The amount of comprehensive automobile liability insurance shall be subject to review and adjustment by the Health Officer pursuant to regulations adopted under this chapter. In the use of helicopters, the equivalent insurance requirements shall apply.

D. Grounds for denial of a license application shall be:

1. Failure to meet the requirements of any provision of this chapter;
2. Violation by any principal of an applicant of Penal Code Section 290;
3. Use of narcotics or other controlled substances;
4. Conviction during the preceding seven (7) years of any crime relating to the use, sale, possession, or transportation of narcotics, or other controlled substances;
5. Habitual or excessive use of intoxicating beverages;
6. Conviction during the preceding seven (7) years of any crime punishable as a felony in the State of California;
7. Conviction of any crime involving moral turpitude, including, but not limited to, fraud or intentional dishonesty for personal gain.

E. In determining the effect of any criminal acts on the issuance or denial of a license, the Health Officer shall consider whether the criminal acts are related to the activities of an ambulance service and shall evaluate the rehabilitation of the person(s) involved. The Health Officer shall not consider crimes of which the applicant is, or was, accused but not convicted.

5.24.080 License suspension or revocation.

A. The Health Officer may suspend or revoke a license for failure by the licensee to comply with, and maintain compliance with, or for violation of, any applicable provision, standard, or requirement of state law or regulation or this chapter, or of any regulations promulgated hereunder. Suspension of a license is not a condition precedent to revocation of a license.

B. Before issuing a suspension or revocation, the Health Officer shall give written notice to the licensee. Said notice shall:

1. Specify the reason(s) for which the proposed action is to be taken;

2. Set a hearing for not more than fifteen (15) days nor less than seven (7) days after the date of the notice;
3. Specify the date, time, and place of the hearing; and
4. Be served on the licensee either by delivery to its principal place of business or to its designated agent for service of such notices, if any.

C. If the licensee, subsequent to service of a suspension or revocation notice under this Section, remedies some or all of the conditions to which the notice refers, the Health Officer may rescind the suspension or revocation at any time.

D. At the hearing, the Health Officer has the burden of proof and may present evidence as to why such action should be taken and to answer the evidence presented by the licensee.

E. The Health Officer may reduce the period of time for hearing under a suspension or revocation notice to no less than twenty-four (24) hours when the Health Officer makes written preliminary findings that such action is necessary to protect the public health, safety, and welfare. When, as a result of such an emergency proceedings, a license is suspended or revoked, the licensee may request an additional hearing at which the licensee will have the burden of establishing renewed compliance justifying reinstatement of the license. Such additional hearing will be commenced within five (5) days of the licensee's request. The request for, and the scheduling of, an additional hearing shall not stay operation of the suspension or revocation order.

F. Hearings conducted pursuant to this section shall be conducted before a hearing officer designated by the Department. At the conclusion of said hearing, the hearing officer shall expeditiously prepare a written summary of the evidence and proposed findings and conclusions for consideration by the Health Care Agency Director.

G. The Health Care Agency Director shall issue a written decision within thirty (30) days after receiving the Hearing Officer's findings and conclusions.

5.24.090 Appeal to Orange County Board of Supervisors.

In the event of denial, suspension, or revocation of a license, the applicant or licensee shall have the right to request a hearing before the Orange County Board of Supervisors, which hearing shall be requested and conducted in the manner specified in Section 5-2-19 of the Codified Ordinances of Orange County.

5.24.100 Notification.

The licensee shall notify the Health Officer within twenty-four (24) hours after any change in ownership or management of the licensee, or any interruption of service of more than twenty-four (24) hours duration, or any substantial change in staffing or

equipment. For purposes of this section, the term “substantial change” shall be as defined by regulation adopted pursuant to this chapter.

5.24.110 Personnel Standards.

A. A licensee shall only employ personnel performing tasks described in this chapter who comply with the requirements of this section.

B. Attendants shall be at least eighteen (18) years of age and trained and competent in the proper use of all equipment, and shall hold current Emergency Medical Technician-1A (“EMT -1A”), or State educational equivalent, certification in compliance with all State laws, rules, and regulations. Additionally, each attendant shall hold a license from the Health Officer indicating compliance with this section. Applications for such licenses shall be in a form required by the Health Officer and shall be accompanied by the fee, if any, established therefore. All applicants for licenses as an attendant shall be subject to the same criminal history review as required for principals of ambulance companies pursuant to this chapter no less than once every four (4) years. Certificates may be denied, suspended, or revoked in the same form and manner as that specified for ambulance service licensees in this chapter. Licenses shall be valid for two (2) years from the date of issuance or certification as an Emergency Medical Technician-1A, whichever is less. Renewal of a license shall be in the same manner as issuance of a new license.

C. Each licensee shall have at least one (1) dispatcher. Emergency ambulance service licensees shall have a dispatcher on a twenty-four (24) hour-per-day basis and shall adequately train the dispatcher to radio operation and protocols and to the emergency response area(s) served before said dispatcher begins dispatching emergency calls. For purposes of this section, “adequate” training of a dispatcher shall be that which meets State standards, if any, or County requirements.

D. Ambulance drivers shall, in addition to the requirements of this chapter for attendants, maintain an appropriate license issued by the California Department of Motor Vehicles and, if applicable, the Federal Aviation Administration.

5.24.120. Rates.

No licensee shall charge more than the maximum BLS rates approved by the Orange County Board of Supervisors. No licensee shall charge more than the maximum ALS rates approved by the Orange County Board of Supervisors or the Orange County Fire Authority.

5.24.130. Selection of ambulance service licensees for exclusive operating areas.

A. The Orange County Fire Authority shall administer the competitive process, on behalf of the local EMS agency, for the award of EOA contracts within the City. The Orange County Fire Authority shall select and shall enter into contracts with licensees for the provision of ambulance service in response to emergencies in each

EOA, unless the City has provided written notification to the Orange County Fire Authority of its intention to retain licensee selection and contracting authority for itself. Such contracts shall provide for one primary contractor per EOA, with such other back-up service by other emergency ambulance service providers as deemed necessary by the Fire Chief. In awarding these contracts, the Orange County Fire Authority, or City if it elects to retain licensee selection and contracting authority, shall consider the comparative value of competing proposals in the same fashion as would be the case were the County evaluating proposals from prospective service providers for other governmental activities, including consideration of:

1. The quality of service to be provided;
2. The level of service to be provided;
3. The rates charged for services to be provided; and
4. The cost, if any, to the awarding agency.

B. The Fire Chief shall administer the contracts for ambulance service awarded by the Orange County Fire Authority, or by the City if applicable, under this Section. The Fire chief shall also prepare and keep current EOA lists specifying contract providers for each EOA. The Fire Chief shall include on the list for each EOA the provider which has entered into an ambulance service agreement with the Orange County Fire Authority, or the City if applicable, as the primary contractor as well as the emergency ambulance service provider(s) who will provide back-up emergency ambulance service for that area.

C. In the event no proposals acceptable to the Orange County Fire Authority, or to the City if it elects to retain licensee selection and contracting authority under the provisions of this section, are received for one or more EOA's, the Orange County Fire Authority, or the City if applicable, shall designate one or more licensees to provide emergency ambulance services for the EOA. From the date of such designation until a regular emergency ambulance service agreement is signed for the affected area(s), provision of emergency ambulance service shall be an express condition of the license and unreasonable or unjustified refusal of such calls shall be a violation of this chapter.

D. No person shall provide ambulance service in response to, or as a result of, an emergency, unless that person is a licensee specified in each instance by a physician or public safety agency. A licensee thus specified by a physician need not be a contractor selected pursuant to this section. Any ambulance service operator receiving a request for emergency ambulance service from other than a public safety agency shall immediately, by telephone, notify a public safety agency designated by regulation of the request.

No licensee responding to an emergency shall transport a patient unless:

1. A paramedic is present at the location of the patient; or

2. A physician is present at the location of the patient and directs transportation in the absence of a paramedic; or
3. A safety qualified employee of the Orange County Fire Authority, or an appropriate employee of a public safety agency designated by regulation, directs transportation in the absence of a paramedic.

Unless otherwise directed by a physician present at the location of the patient, a licensee shall transport a patient pursuant to regulations adopted under Section 5.24.140 of this chapter.

5.24.140. Rules and Regulations.

A. As to all sections of this chapter except Section 5.24.130, the Health Officer shall make such rules and regulations and as may be necessary to implement this chapter. Prior to adoption, proposed rules and regulations shall be submitted to the Orange County Emergency Medical Care Committee for comment.

B. As to Section 5.24.130 of this chapter, the Fire Chief shall make such rules and regulations and as may be necessary to implement this chapter. Prior to adoption, the Fire Chief's rules and regulations shall be submitted to the Orange County Emergency Medical Care Committee for comment.

C. The Health Officer or the Fire Chief or their respective designee(s) may inspect the records, facilities, transportation units, equipment, and method of operating of each licensee whenever necessary and, by the Health Officer, at least annually.

5.24.150. Complaints.

The Department, the City, any user, subscriber, public safety agency or consumer who believes, or has reason to believe, that an individual has been required to pay an excessive charge for services, received inadequate services, or services provided were not in compliance with the provisions of this chapter, may file a written complaint with the Department and the Fire Chief setting forth such allegations. The Department and Fire Chief shall notify the ambulance service operator of such complaint. The ambulance service operator shall file a written response within fifteen (15) calendar days after receipt of the notification.

5.24.160. Variance.

As to all but Section 5.24.130 of this chapter, the Health Officer may grant variances from the terms of this chapter if he or she finds such action is necessary to protect the public health, safety, or welfare. As to Section 5.24.130 of this chapter, the Fire Chief may grant variances from the terms of this chapter if he or she finds such action is necessary to protect the public health, safety, or welfare. As to the Health Officer, such variances may include the issuance of a temporary license. No temporary license shall exceed one hundred and eighty (180) days in duration.

5.24.170. Violations - penalty.

Violation of any provision of this chapter by an ambulance service operator shall be a misdemeanor.

SECTION 2. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect thirty (30) days after its final passage.

PASSED, APPROVED, AND ADOPTED this 26th day of May 2004.

MAYOR

ATTEST:

CITY CLERK

SUPPORTING DOCUMENT BChapter 5.24AMBULANCE SERVICE

- 5.24.010 Intent and Purpose.
- 5.24.020 Definitions.
- 5.24.030 License Required.
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- 5.24.150 Complaints.
- 5.24.160 Variance.
- 5.24.170 Violation-penalty.

5.24.010 Intent and Purpose.

It is the intent of this Chapter to establish general operating procedures and standards for medical transportation services operating within the City in both emergency and other situations, to provide a fair and impartial means of allowing responsible private operator to provide such services in the public interest and to provide a means for the designation of exclusive operating areas. This chapter is modeled after Division 9, Article I of Title 4 of the Codified Ordinances of the County of Orange (County Model Ambulance Ordinance No. 3517; OCC §4-9-1).

5.24.020 Definitions.

For purposes of this Chapter, the following terms are defined:

- (a) "Advanced life support service" (ALS) and "basic life support service" (BLS) mean the same as defined in the California Health and Safety Code.
- (b) "Ambulance" means a motor vehicle, helicopter, or similar vehicle, specifically constructed, modified, equipped, or arranged and operated for the purpose of transporting patients requiring immediate or ongoing medical services excluding the transportation of such persons to or from locations not providing services as defined in this Chapter.

- (c) "Ambulance service" means the activity, business or service, for hire, profit, or otherwise, of transporting one or more persons by ambulance; provided, however, ambulance service shall not include the transportation by ambulance by an employer of his or her own employees in an ambulance owned and operated by the employer solely for this purpose.
- (d) "Ambulance service operator" means any person who operates or owns an ambulance service.
- (e) "Attendant" means a trained, qualified individual who, regardless of whether he or she also serves as driver, is responsible for the care of patients.
- (f) "City" means the City of Dana Point.
- (g) "County" means the County of Orange, State of California.
- (h) "Department" means the Emergency Medical Services Agency of the County of Orange or the Health Care Agency of the County of Orange, or as otherwise designated by the Orange County Board of Supervisors.
- (i) "Dispatcher" means an individual employed by an ambulance service operator responsible for sending an ambulance to provide ambulance service to a patient.
- (j) "Driver" means an attendant who drives or pilots an ambulance.
- (k) "Emergency" means a sudden, unforeseen event giving rise to a need for ambulance service with basic or advanced life support services and is a condition in which an individual has a need for immediate medical attention, or where the potential for such need is perceived by emergency medical personnel or a public safety agency..
- (l) Exclusive Operating Area ("EOA") means the same as defined in Section 1797.85 of the Health and Safety Code, and which is established pursuant to Section 1797.224 of the Health and Safety Code.
- (m) "Emergency service" means ambulance service performed in response to an emergency.
- (n) "Fire Chief" means the Fire Chief of the Orange County Fire Authority.
- (o) "Health Officer" means the Orange County Health Officer or other official designated by the Orange County Board of Supervisors to perform the Health Officer's functions under this Chapter.
- (p) "Licensee" means an ambulance service operator which has been granted a license under this Chapter to provide ambulance service.

- (q) "Medical services" means services provided by health care professionals licensed pursuant to the California Business and Professions Code or as specified by regulations adopted pursuant to this Chapter.
- (r) "Paramedic" means the same as defined in the California Health and Safety Code.
- (s) "Patient" means a wounded, injured, sick, invalid, or otherwise incapacitated person.
- (t) "Person" means any individual, firm, corporation, partnership, association, or other group or combination acting as a unit.
- (u) "Physician" means a medical doctor or osteopath holding the appropriate license or certificate to practice as such with the State of California pursuant to the Business and Professions Code.
- (v) "Public safety agency" means any public law enforcement agency, fire protection agency, or forest ranger operating in the City or county.

5.24.030 License Required.

- (a) It shall be unlawful for any person to be an ambulance service operator, or to act in such a capacity either directly or indirectly, within the City without possession of a license issued pursuant to this Chapter. A license may specify the specific geographical area within the City in which it is valid; provided, however, with respect to EOA's, reference to the EOA's by a specific number or similar identification shall be sufficient description of geographic limitation. A license shall be valid for not more than one calendar year or the expiration of the calendar year in which it was issued, whichever is shorter.
- (b) The provisions of this Chapter shall not apply to:
 - (1) Ambulances operated at the request of a public safety agency during any "state of war emergency," "state of emergency" or "local emergency," as defined in the Government Code.
 - (2) Ambulance service transporting a patient from a location outside of the City regardless of destination.
 - (3) Ambulance service transporting a patient by a fixed-wing airplane. (Added by Ord. 98-02, 2/24/98)

5.24.040 Transfer and Term of License.

No license issued pursuant to this Chapter can be transferred by operation of law or otherwise. The following shall be considered transfers for purposes of this Section:

- (a) Any change in the business structure of a licensee, including, but not limited to, changes from or to:
 - (1) A sole proprietorship;
 - (2) A partnership, including any change in the partners; and
 - (3) A corporation, including any change in the shareholders, whether by operation of law or otherwise.
- (b) Bankruptcy, an assignment for the benefit of creditors or the appointment of a receiver.
- (c) A sale or transfer of over ten percent (10%) of the assets of a licensee.

A licensee may apply to the Health Officer for an amendment to the terms of the license, which request shall be processed in the same manner as an original application. Notwithstanding anything in this Section to the contrary, licenses may be suspended, revoked, or terminated prior to the expiration date, pursuant to the provisions of this Chapter.

5.24.050 Applications.

- (a) Each application for a license shall be accompanied by an application fee, if any, set by the Orange County Board of Supervisors, and be made upon forms prescribed by the Health Officer.
- (b) Each applicant shall submit the following:
 - (1) The names and addresses of the applicant(s) and the owner(s) of the ambulance(s) and the business and any interest therein;
 - (2) The applicant's training and experience in the transportation and care of patients;
 - (3) The names under which the applicant has engaged, does engage, and proposes to engage in ambulance service;
 - (4) A description of each ambulance including the make, model, year of manufacture, vehicle identification number, current state license number, the length of time the vehicle has been in use, and the color scheme, insignia, name, monogram, and other distinguishing characteristics of the vehicle, a description of the company's program for maintenance of the vehicle, and a description of the vehicle's radio(s);
 - (5) Proof that the applicant has obtained all licenses and permits required by State or local law or regulation for the type of ambulance service proposed, excluding only a license to provide the service for which application is made;

- (6) The names and qualifications of each attendant, driver, or dispatcher employed, or to be employed, in providing ambulance service;
- (7) Proof that the applicant possesses and maintains currently valid California Highway Patrol inspection reports for each vehicle listed in the application;
- (8) A description of the applicant company's training and orientation programs for attendants, drivers and dispatchers;
- (9) Evidence of such financial responsibility and insurance coverage as may be required by the Health Officer pursuant to regulations adopted in accordance with this Chapter;
- (10) Identification of the geographical area to be served by the applicant, if required by the department;
- (11) As to new applications or transfers as specified in Section 5.24.040, a fingerprint receipt for each principal of the applicant, issued by the Orange County Sheriff-Coroner indicating each principal of the applicant has undergone a complete criminal history check, followed by a report from the Orange County Sheriff-Coroner showing no conviction of crimes which would be violations of the provisions of Section 5.24.070(d)(2), (3), (4), (5), (6) or (7);
- (12) A list of all substations or offices where equipment and personnel are, or will be based including hours of operation; and
- (13) A description of whether the service proposed by the applicant will include basic life support services or advanced life support service, and if so:
 - (A) The number of basic life support service or advanced life support service units to be deployed on each shift;
 - (B) The emergency response area(s) to receive basic life support service or advanced life support service; and
 - (C) The provisions, if any, for continuing education of attendants.
- (14) Such other information as the Health Officer may require in regulations adopted pursuant to this Chapter.
 - (c) Renewal applications shall be submitted in the same form and require the same materials, as original applications except the requirement of Section 5.24.050(b)(11).

5.24.060 Investigations.

Upon receipt of a completed application and the required fee, if any, the Health Officer shall make, or cause to be made, such investigation as the Health Officer deems necessary to determine if:

- (a) The applicant is a responsible and proper person to conduct, operate or engage in the provision of ambulance services;
- (b) The applicant meets the requirements of this Chapter and of other applicable laws, ordinances, or regulations.

5.24.070 Issuance or Denial of License.

- (a) The Health Officer shall issue a license to an applicant if the Health Officer, after completing any investigation required pursuant to this Chapter, determines an requirements of this Chapter have been met and the license fee, if any, set by the Orange County Board of Supervisors, has been paid.
- (b) In the event of denial, the applicant shall be informed by the Health Officer in writing of the reasons therefore.
- (c) The licensees shall obtain and keep in force during the term of a license, comprehensive automobile liability insurance and professional liability insurance issued by a company authorized to do business in the State of California, acceptable to the Health Officer, insuring the owner against loss by reason of injury or damage that may result to persons or property from negligent operation or defective construction of such ambulance, or from violation of this Chapter or any other law of the State of California, or the United States. Said comprehensive automobile liability policy shall be in the sum of not less that \$5,000,000 for combined single limit, bodily injury and property damage; said professional liability insurance shall be in the sum of not less than \$1,000,000 per person and \$1,000,000 annual aggregate; or other liability coverage acceptable to the City and approved by the City Attorney and the City's designated risk manager. Worker's compensation insurance shall be carried covering all employees of the license holder. Before the Health Officer shall issue a license, copies of the policies, or certificates evidencing such policies, shall be filed with the Health Officer. All policies shall contain a provision requiring a thirty (30) day notice to be given to the Department prior to cancellation, modification, or reduction in limits. The amounts of comprehensive automobile insurance shall be subject to review and adjustment by the Health Officer pursuant to regulations adopted under this Chapter. In the use of helicopters the equivalent insurance requirements shall apply.
- (d) Grounds for denial of a license application shall be:
 - (1) Failure to meet the requirement of any provision of this Chapter;
 - (2) Violation by any principal of an applicant of Penal Code Section 290;

- (3) Use of narcotics or other controlled substances;
 - (4) Conviction during the preceding seven (7) years of any crime relating to the use, sale, possession or transportation of narcotics, or other controlled substances;
 - (5) Habitual or excessive use of intoxicating beverages;
 - (6) Conviction during the preceding seven (7) years of any crime punishable as a felony in the State of California;
 - (7) Conviction of any crime involving moral turpitude, including, but not limited to, fraud or intentional dishonesty for personal gain.
- (e) In determining the effect of any criminal acts on the issuance or denial of a license, the Health Officer shall consider whether the criminal acts are related to the activities of an ambulance service and shall evaluate the rehabilitation of the persons involved. The Health Officer shall not consider crimes of which the applicant is, or was, accused but not convicted.

5.24.080 License Suspension or Revocation.

- (a) The Health Officer may suspend or revoke a license for failure by the licensee to comply, and maintain compliance with, or for violation of, any applicable provision, standards or requirements of State law or regulation, of this Chapter, or of any regulations promulgated hereunder. Suspension of a license is not a condition precedent to revocation of a license.
- (b) Before suspension or revocation of a license, the Health Officer shall give written notice to the licensee. Said notice shall:
 - (1) Specify the reasons for which the proposed action is to be taken;
 - (2) Set a hearing for not more than fifteen (15) days nor less than (7) days after the date of the notice;
 - (3) Specify the date, time, and place of the hearing; and
 - (4) Be served on the licensee either by delivery to its principal place of business or to its designated agent for service of such notices, if any.
- (c) If the licensee, subsequent to service of a suspension or revocation notice under this Section, remedies some or all of the conditions to which the notice refers, the Health Officer may rescind a suspension or revocation at any time.

- (d) At the hearing, the Health Officer has the burden of proof and may present evidence as to why such action should be taken and to answer the evidence presented by the licensee.
- (e) The Health Officer may reduce the period of time for hearing under a suspension or revocation notice to no less than twenty-four (24) hours when the Health Officer makes written preliminary findings that such action is necessary to protect the public health, safety and welfare. When, as a result of such an emergency proceeding, a license is suspended or revoked, the licensee may request an additional hearing at which the licensee will have the burden of establishing renewed compliance justifying reinstatement of the license. Such additional hearing will be commenced within five (5) days of the licensee's request. The request for, and the scheduling of, an additional hearing shall not stay operation of the suspension or revocation order.
- (f) Hearings conducted pursuant to this Section shall be conducted before a hearing officer designated by the Department. At the conclusion of said hearing, the hearing officer shall expeditiously prepare a written summary of the evidence and proposed findings and conclusions for consideration by the Health Care Agency Director.
- (g) The Health Care Agency Director shall issue a written decision within thirty (30) days after receiving the hearing officer's findings and conclusions.

5.24.090 Appeal to Orange County Board of Supervisors.

In the event of denial, suspension, or revocation of a license, the applicant or licensee shall have the right to request a hearing before the Orange County Board of Supervisors, which hearing shall be requested and conducted in the manner specified in Section 5-2-19 of the Codified Ordinances of the County of Orange.

5.24.100 Notification.

The licensee shall notify the Health Officer within twenty-four (24) hours after any change in ownership or management of the licensee, or any interruption of service of more than twenty-four (24) hours duration, or any substantial change in staffing or equipment. For purposes of this Section, the term "substantial change" shall be as defined by regulation adopted pursuant to this Chapter.

5.24.110 Personnel Standards.

- (a) A licensee shall only employ personnel performing tasks described in the Chapter who comply with the requirements of this Section.
- (b) Attendants shall be at least eighteen (18) years of age and trained and competent in the proper use of all equipment, and shall hold current "EMT 1A" or State education equivalent certification in compliance with all State laws, rules, and

regulations. Additionally, each attendant shall hold a license from the Health Officer indicating compliance with this Section. Applications for such licenses shall be in a form required by the Health Officer and shall be accompanied by the fee, if any, established therefore. All applicants for licenses as an attendant shall be subject to the same criminal history review as required for principals of ambulance companies pursuant to this Chapter of no less than once every four (4) years. Certificates may be denied, suspended, or revoked in the same form and fashion as that specified for ambulance service licensees in this Chapter. Licenses shall be valid for two (2) years from the date of issuance or certification as an Emergency Medical Technician-1A, whichever is less. Renewal of a license shall be in the same fashion as issuance of a new license.

- (c) Each licensee shall have at least one dispatcher. Emergency ambulance service licensees shall have a dispatcher on a twenty-four (24) hour-per-day basis and shall adequately train the dispatcher as to radio operation and protocols and to the emergency response area(s) served before said dispatcher begins dispatching emergency calls. For purposes of this Section, "adequate" training of a dispatcher shall be that which meets State standards, if any, or County requirements.
- (d) Ambulance drivers shall, in addition to the requirements of this Chapter for attendants, maintain an appropriate license issued by the California Department of Motor Vehicles and, if applicable, the Federal Aviation Administration.

5.24.120 Rates.

No licensee shall charge more than the maximum BLS rates approved by the Orange County Board of Supervisors. No licensee shall charge more for Advanced Life Support than the maximum ALS rates approved by the Orange County Fire Authority.

5.24.130 Selection of ambulance service licensees for exclusive operating areas.

- (a). The Orange County Fire Authority shall administer the competitive process, on behalf of the local EMS agency, for the award of EOA contracts within the City. The Orange County Fire Authority shall select and shall enter into contracts with licensees for the provision of ambulance service in response to emergencies in each EOA, unless the City has provided written notification to the Orange County Fire Authority of its intention to retain licensee selection and contracting authority for itself. Such contracts shall provide for one primary contractor per EOA, with such other back-up service by other emergency ambulance providers as deemed necessary by the Fire Chief. In awarding these contracts, the Orange County Fire Authority, or City if it elects to retain licensee selection and contracting authority, shall consider the comparative value of competing proposals in the same fashion as would be the case were the County evaluating proposals from prospective service providers for other governmental activities, including consideration of:

- (1) The quality of service to be provided;

- (2) The level of service to be provided;
 - (3) The rates charged for services to be provided; and
 - (4) The cost, if any, to the agency.
- (b) The Fire Chief shall administer the contracts for ambulance service awarded by the Orange County Fire Authority, or by the City if applicable, under this Section. The Fire Chief shall also prepare and keep current EOA lists specifying contract providers for each EOA. The Fire Chief shall include on the list for each EOA the provider which has entered into an ambulance service agreement with the Orange County Fire Authority, or the City if applicable, as the primary contractor as well as the emergency service provider(s) who will provide back-up emergency ambulance service for that area.
- (c) In the event no proposals acceptable to the Orange County Fire Authority, or to the City if it elects to retain licensee selection and contracting authority under the provisions of this Section are received for one or more EOA's, the Orange County Fire Authority, or the City if applicable, shall designate one or more licensees to provide emergency ambulance services. From the date of such designation until a regular emergency ambulance service agreement is signed for the affected area(s), provision of emergency ambulance services shall be an express condition of the license and unreasonable or unjustified refusal of such calls shall be a violation of this Chapter.
- (d) No person shall provide ambulance service in response to, or as a result of, an emergency, unless that person is a licensee specified in each instance by a physician or public safety agency. A licensee thus specified by a physician need not be a contractor selected pursuant to this Section. Any ambulance service operator receiving a request for emergency ambulance service from other than a public safety agency shall immediately, by telephone, notify the public safety agency designated by regulation of the request.

No licensee responding to an emergency shall transport a patient unless:

- (1) A paramedic is present at the location of the patient; or
- (2) A physician is present at the location of the patient and directs transportation in the absence of a paramedic; or
- (3) A safety qualified employee of the Orange County Fire Authority, or an appropriate employee of a public safety agency designated by regulation directs transportation in the absence of a paramedic.

Unless otherwise directed by a physician present at the location of the patient, a licensee shall transport a patient under regulations adopted pursuant to Section 5.23.140. (Added by Ord. 98-02, 2/24/98)

5.24.140 Rules and Regulations.

- (a) As to all Sections of this Chapter except Section 5.24.130, the Health Officer shall make such rules and regulations as may be necessary to implement this Chapter. Prior to adoption, proposed rules and regulations shall be submitted to the Orange County Emergency Care Committee for comment.
- (b) As to Section 5.24.130 of this chapter, the Fire Chief shall make such rules and regulations as may be necessary to implement this Chapter. Prior to adoption, the Fire Chief's rules and regulations shall be submitted to the Orange County Emergency Medical Care Committee for comment.
- (c) The Health Officer or the Fire Chief or their respective designee(s) may inspect the records, facilities, transportation units, equipment and method operation of each licensee whenever necessary and, by the Health Officer, at least annually.

5.24.150 Complaints.

The City, the department, any user, subscriber, public safety agency or consumer who believes, or has reason to believe, that an individual has been required to pay an excessive charge for services, received inadequate services, or services provided were not in compliance with the provision of this Chapter, may file a written complaint with the Department and the Fire Chief setting forth such allegations. The Department and the Fire Chief shall notify the ambulance service operator of such complaint. The ambulance service operator shall file a written response within fifteen (15) calendar days after receipt of notification.

5.24.160 Variance.

As to all but Section 5.24.130 of this chapter, the Health Officer may grant variances from the terms of this Chapter if he/she finds such action is necessary to protect the public health, safety or welfare. As to Section 5.24.130 of this chapter, the Fire Chief may grant variances from the terms of this Chapter if he/she finds such action is necessary to protect the public health, safety or welfare. As to the Health Officer, such variances may include the issuance of a temporary license. No temporary license shall exceed one hundred eighty (180) days in duration. (Added by Ord. 98-02, 2/24/98)

5.24.170 Violation – Penalty.

Violation of any provision of this Chapter by an ambulance service operator shall be a misdemeanor.