

ORDINANCE NO. 2022- _____

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA, AMENDING SECTIONS 304.02 (AUTHORITY AND PURPOSE), 304.02 (DEFINITIONS), 304.07 (SAME-INVESTIGATION; STAFF RECOMMENDATION), 304.08 (CONTENTS OF CERTIFICATE), 304.09 (INSPECTIONS), 304.11 (RENEWAL), 304.12 (REVOCATION, ALTERATION OR SUSPENSION) OF PART I (LIFE SUPPORT SERVICES) OF CHAPTER 304 (LIFE SUPPORT AND WHEELCHAIR SERVICES) AND STRIKING PART II (WHEELCHAIR VEHICLE SERVICES) OF CHAPTER 304 (LIFE SUPPORT AND WHEELCHAIR SERVICES) IN ORDER TO UPDATE TERMS AND ELIMINATE THE REGULATION OF WHEELCHAIR VEHICLE SERVICES; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT:

Section 1. Enactment Authority.

Article VIII, section 1 of the Florida Constitution and chapter 125, Florida Statutes vest broad home rule powers in counties to enact ordinances, not inconsistent with general or special law, for the purpose of protecting the public health, safety and welfare of the residents of the county. The Indian River County Board of County Commissioners specifically determines that the enactment of this ordinance is necessary to protect the health, safety and welfare of the residents of Indian River County.

Section 2. Amendment of Chapter 304 (Life Support and Wheelchair Services).

New language indicated by underline, and deleted language indicated by ~~strikethrough~~.

Chapter 304 (Life Support and Wheelchair Services) of the Code of Indian River County, Florida is hereby amended to read as follows:

CHAPTER 304 – LIFE SUPPORT AND ~~WHEELCHAIR SERVICES~~

PART I. – LIFE SUPPORT SERVICES

* * *

Section 304.02. - Authority and purpose.

This chapter is promulgated pursuant to F.S. Ch. 401. The purpose of this chapter is to promote the health, safety, and welfare of residents of Indian River County in need of emergency medical services by establishing standards for issuing certificates of public convenience and necessity for emergency medical transport services, advanced life support services, and basic life support services; by providing for the adoption of regulations governing the operation of emergency medical transport services, advanced life support services, and non-emergency medical/interfacility transport services.

The board specifically intends that the Indian River County Department of Emergency Services shall be responsible for providing emergency pre-hospital ALS and BLS services within the county, with the exception of the Town of Indian River Shores, and that the role of private ALS and BLS services shall be to provide, on request, interfacility/interhospital non-emergency transportation.

~~This chapter has the additional purpose of setting forth minimum standards under which non-emergency wheelchair transport services may be provided in Indian River County.~~

Section 304.021. - Definitions.

The following words shall have the definitions as follows:

Advanced life support means treatment of life threatening medical emergencies through the use of techniques such as endotracheal intubation, the administration of drugs, intravenous fluids, telemetry, cardiac monitoring, and cardiac defibrillation by a paramedic as defined in Rule 40D-66 64J-1, Florida Administrative Code.

* * *

Deficiency correction notice means a notice issued by the ~~EMS director~~ Emergency Services Director or his designee notifying a certificate holder of any infraction with the infraction specified and a specified time period allowed for correction.

~~*EMS director* means the director of emergency services of Indian River County, Florida charged with responsibility and authority to supervise, direct, and administer the EMS, ALS and BLS system on a county-wide basis to effectuate delivery of EMS services. If a situation exists which poses a serious or imminent threat to the health, safety, welfare, or public need and convenience, the EMS director shall have such temporary emergency powers as are necessary to remedy the situation.~~

* * *

Emergency Services Director means the director of emergency services of Indian River County, Florida charged with responsibility and authority to supervise, direct, and administer the EMS, ALS and BLS system on a county-wide basis to effectuate delivery of EMS services. If a situation exists which poses a serious or imminent threat to the health, safety, welfare, or public need and convenience, the Emergency Services Director shall have such temporary emergency powers as are necessary to remedy the situation.

* * *

~~Non-emergency medical transportation service means a vehicle designed, constructed, reconstructed, or operated for the transportation of persons with non-emergency medical conditions where no medical assistance by the certificate holder is needed or anticipated during transportation; or for persons who cannot enter, occupy or exit a vehicle without considerable assistance; or where specialized equipment is used for wheelchair or stretcher service; and where the driver serves as both a driver and an attendant to assist in door to door or bed to bed service. No emergency equipment other than a fire extinguisher may be installed in the vehicle. No wording or advertising may be used to misrepresent the non-medical and non-emergency status of such a service or vehicle.~~

~~* * *~~

~~Wheelchair vehicles means any privately or publicly owned land, air or water vehicle which is designed, constructed, reconstructed, maintained, equipped, or operated, and is used for or intended to be used for transportation of a person who is sitting in a wheelchair, and whose condition is such that the person does not need and is not likely is need medical attention during transport, and which has received a certificate of public convenience and necessity.~~

~~Wheelchair vehicle service means the transport of persons in a wheelchair vehicle when such persons are not in need of medical care and are not likely to need medical care; provided, however, said service shall not include the Indian River County Volunteer Ambulance Squad.~~

~~* * *~~

Section 304.07. - Same—Investigation; staff recommendation.

After an application has been received by the county, the ~~EMS~~ EMS Emergency Services ~~d~~Director shall cause an investigation to be made into the application, including a determination of the public need for the proposed service in the geographical area requested.

The ~~EMS~~ EMS Emergency Services Director shall contact the medical director, all other service providers in the county, and any municipality in which the applicant desires to provide service. Within sixty (60) days from receipt of the completed application, the ~~EMS~~ EMS Emergency Services Director shall schedule a public hearing before the board of county commissioners with notice to all other service providers in the requested service area, any municipality in the requested service area and to the general public by publication in the local newspaper with at least one week's notice. At the public hearing the board of county commissioners shall consider the ~~EMS~~ EMS Emergency Services Director's recommendation and any input from other service providers, municipalities, or interested groups or citizens and may grant or deny the requested certificate of public convenience and necessity. In making his recommendation, the ~~EMS~~ EMS Emergency Services ~~d~~Director shall consider the following factors:

- (a) The population density and composition of the likely areas within which the proposed ALS, BLS, or nonemergency medical transport service will operate.

- (b) The need of the people in the area for ALS, BLS, or non-emergency medical transport service.
- (c) A comparison of estimated annual requests for service in the particular certificate category with the current number of vehicles satisfying requests.
- (d) Such other factors as may be considered important by the EMS Emergency Services Director.

Section 304.08. - Contents of certificate.

Any certificate issued under this division shall require the service provider and all employees, including paramedics and emergency medical technicians, to comply with the following:

1. Agree to respond only to emergency pre-hospital calls in the service area and, when units are available, to provide response to other service areas in the county when requested to do so by the other providers or by the EMS Emergency Services Director. (Class A only.)
2. Post a copy of standard operating procedures which the service provider will use to give general specific instructions to its personnel concerning the nature of their duties and responsibilities. These procedures must be reviewed by the EMS Emergency Services Director prior to the effective date of the certificate.
3. Comply with all lawful directives of the EMS Emergency Services Director and medical director, including any medical protocols and training directives not preempted by the state.
4. Provide continuous and uninterrupted service within the service area.
5. Maintain the number of vehicles which shall be a number determined by the EMS Emergency Services Director and the medical director considering the population and geographical distance of the service area, but in any event shall not be less than one fully staffed operating vehicle.
6. Ensure that its vehicles are driven in a safe and lawful manner at all times.
7. Use its lights and sirens only for properly authorized events and in compliance with state law and local law enforcement policy.
8. Keep posted at all business locations a copy of the certificate including the approved rate schedule. The certificate holder may adjust the rate schedule up to ten (10) percent a year without board approval, however, the adjusted rate must be maintained for one year and the EMS Emergency Services Director must be notified in writing of the rate change. Rate increases in excess of ten (10) percent must be reviewed and approved by the board of county commissioners with the approved rate being maintained for one year by the certificate holder.
9. Operate in compliance with all federal, state and local laws, rules, and regulations.

10. Provide copies of vehicle run sheets and radio logs to the EMS Emergency Services Director upon request, to the extent permitted by the public records law.

Section 304.09. - Inspections.

The EMS Emergency Services Director, or his designee, shall inspect each service prior to, and as a continuing part of, the certificate process. This inspection shall determine the continuing compliance of this chapter and state law and rule and regulations by the certificate holder as a condition of certificate issuance.

Inspections shall be conducted periodically and may be conducted with or without notice to the certificate holder at reasonable times and whenever such inspection is deemed necessary by the EMS Emergency Services Director. Inspections shall be conducted without impeding patient care.

If, during the course of an inspection, a situation is found which, in the determination of the EMS Emergency Services Director, will jeopardize the safety or welfare of the service personnel or patient care, the EMS Emergency Services Director may exercise the powers necessary to ensure the certificate holder's compliance with the chapter.

* * *

Section 304.11. - Renewal.

The certificates may be renewed routinely by the board on application by the certificate holder. However if the board has reason to believe that the public health, safety, and welfare requires it, a public hearing may be ordered by the board to consider not renewing any certificate. Before any such action can occur, the board must first comply with the notice and hearing provisions of section 304.08.

Application for renewal of existing certificates of public convenience and necessity shall be made by written request to the EMS Emergency Services Director. This request shall be filed no more than ninety (90) days prior to the expiration date of the provider certificate of public convenience and necessity.

Section 304.12. - Revocation, alteration or suspension.

1. *Generally.* Every certificate issued under this division shall be subject to revocation, alteration or suspension by the board where it shall appear that the certificate holder has not complied with the requirements of the certificate and the public interest so required.

It shall be a violation of this chapter, for any person, business entity, hospital, or governmental agency to:

- A. Intentionally obstruct, bar or otherwise interfere with an inspection conducted under the purview of this chapter;
- B. Knowingly make an omission of a material fact or a false statement in any application or other document filed with the EMS Emergency Services Director.

- C. Knowingly, by telephone or otherwise, cause to be placed or place a false emergency medical call;
- D. Knowingly violate or fail to observe any requirement of this chapter, or any rule, regulation or order under the provision of this chapter;
- E. Represent herself, himself, or itself as an emergency medical transport service, as advanced life support service, or a special limited service, or engage in the business of conducting an emergency medical transport service, an advanced life support service, or a special limited service without first obtaining an appropriate certificate of public convenience and necessity from the board as provided herein and obtaining the necessary State of Florida licenses, as applicable; or
- F. Operate an ambulance or emergency medical services vehicles that does not meet the requirements of this chapter and F.S. Ch. 401.

A separate and distinct offense shall be deemed to occur each day a prohibited act occurs.

- 2. *Complaint procedures.* Complaints about a certificate holder will be in writing and shall be reviewed for sufficiency by the ~~EMS~~ Emergency Services Director. Should the review substantially verify that a violation of this chapter or state law has occurred, the Emergency Services Director may conduct an investigation. The ~~EMS~~ Emergency Services ~~Director~~ shall be provided access to the certificate holder's business, personnel, and documents to assist in said investigation. The Emergency Services Director shall forward a copy of the investigation and enforcement action taken to the state EMS office.
- 3. *Proceedings.* Proceedings for revocation, alteration, or suspension of a certificate shall be undertaken by the board at a public hearing with notice to all certificate holders and after publication of notice not less than one week before the hearing date, where it is found that:
 - A. The certificate holder has failed or neglected to abide by this chapter or the rules and regulation promulgated by the board, or F.S. Ch. 401; or
 - B. The application submitted to secure a certificate of public convenience and necessity from the board of county commissioners contains false representation or omitted material facts; or
 - C. The certificate holder, or its agent, has demanded money or other compensation in excess of that established in its schedule of fees filed with the board pursuant to this chapter; or
 - D. The certificate holder has failed to comply with a correction order issued under section 304.12 of this chapter; or
 - E. The certificate holder has been adjudicated guilty of a felony provided his/her civil rights have not been restored; or
 - F. The certificate holder has been found by a court of competent jurisdiction guilty of any criminal offense involving moral turpitude; or

- G. The certificate holder has been found guilty of malpractice or negligence in the operation of its service; or
- H. The certificate holder has had their/its state license revoked or suspended.

* * *

Section 3. Striking Part II (Wheelchair Vehicle Services) of Chapter 304 (Life Support and Wheelchair Services).

Part II (Wheelchair Vehicle Services) of Chapter 304 (Life Support and Wheelchair Services) of the Code of Indian River County, Florida is hereby stricken in its entirety.

Section 4. Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. Severability. If any part of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected by such holding and shall remain in full force and effect.

Section 6. Codification. It is the intention of the Board of County Commissioners that the provision of this ordinance shall become and be made part of the Indian River County Code, and that the sections of this ordinance may be renumbered or re-lettered and the word ordinance may be changed to section, article or such other appropriate word or phrase in order to accomplish such intention.

Section 7. Effective Date. This ordinance shall become effective upon adoption by the Board of County Commissioners and filing with the Department of State.

This ordinance was advertised in the Indian River Press Journal on the ___ day of _____, 2022, for a public hearing to be held on the ___ day _____, 2022, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

Chairman Peter D. O'Bryan	_____
Vice-Chairman Joseph H. Earman	_____
Commissioner Susan Adams	_____
Commissioner Joseph E. Flescher	_____
Commissioner Laura Moss	_____

The Chairman thereupon declared the ordinance duly passed and adopted this ___ day of _____, 2022.

**BOARD OF COUNTY
COMMISSIONERS OF INDIAN RIVER
COUNTY, FLORIDA**

By: _____
Peter D. O'Bryan, Chairman

**ATTEST: Jeffrey R. Smith, Clerk
and Comptroller**

By: _____
Deputy Clerk

EFFECTIVE DATE: This Ordinance was filed with the Department of State on the _____
day of _____, 2022.

