

## **BRANDON CITY COUNCIL AGENDA**

Council Chambers – 308 S. Main

January 15, 2020

6:15 p.m.

1. Call to Order
2. Roll Call and Determination of Quorum
3. Approval of Agenda
4. Visitors/Timed Items/Public Comment
  - A) **Public Comments:** Those wanting to address the Council that do not appear on the agenda will be heard at this time but are limited to five (5) minutes. No action will be taken on any action requested at this time due to the twenty-four-hour public notice requirement.
5. Work Session with Med-Star on New Ambulance Ordinance
6. Adjournment

Individuals in need of assistance in attaining access to the meeting, please contact City Hall within 24 hours of the meeting time for special arrangements.

**ORDINANCE #598**  
**AMENDING CHAPTER 6-7 AMBULANCE SERVICES OF THE BRANDON CITY**  
**CODE**

**BE IT ORDAINED** by the City Council of the City of Brandon, South Dakota, that Chapter 6-7 be deleted in its entirety and replaced as follows:

**6-7-1 BRANDON VOLUNTEER FIRE DEPARTMENT**

The Volunteer Fire Department of the City of Brandon provides necessary basic life support care as first responders on medical emergency calls. The Volunteer Fire Department of the City of Brandon recommends that it is a benefit to the safety, health and welfare of the citizens of Brandon for surface ambulance services to be provided by experienced and qualified Emergency Medical Technician-Paramedics so that excellent advanced life-support care is consistently provided to the citizens of Brandon.

**6-7-2 DEFINITIONS**

Whenever any of the following terms are used in the body of this Ordinance, the following meanings shall apply:

1. Advanced Life Support (ALS): The treatment of life-threatening medical emergencies through the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, electrocardiographic monitoring (ECG), and cardiac defibrillation by a qualified person, pursuant to South Dakota Codified Laws.
2. Advanced Life Support Service: Any emergency medical transport or nontransport service which uses advanced life support techniques.
3. Air ambulance: Any fixed-wing or rotary-wing aircraft used for, or intended to be used for, air transportation of sick or injured persons requiring or likely to require medical attention during transport.
4. Air ambulance service: Any publicly or privately owned service which operates air ambulances to transport persons requiring or likely to require medical attention during transport.
5. Ambulance: Any privately or publicly owned land or water vehicle that is designed, constructed, reconstructed, maintained, equipped, or operated for, and is used for, or intended to be used for, land or water transportation of sick or injured persons requiring or likely to require medical attention during transport.
6. Basic Life Support: The treatment of medical emergencies by a qualified person through the use of techniques defined by the National Scope of Practice described in the Emergency Medical Technician Education Standards of the United States Department of Transportation. The term "basic life support" also includes other techniques which have been approved and are performed under conditions specified by rules of the State of

South Dakota Department of Health or Minnehaha County. All Licensees must be staffed by two Emergency Medical Technicians on board when services are being furnished.

7. Basic Life Support Service: Any emergency medical service which uses only basic life support techniques.
8. Closest Available Emergency Medical Services Response Vehicle: The vehicle which is closest to the scene at the time of the call as determined by a Public Safety Answering Point through GIS mapping and is a validly licensed operator.
9. Mutual Aid Agreement: An agreement between licensed ambulance providers neighboring jurisdictions to dispatch the closest available emergency medical services response vehicle to the scene of a medical emergency within Minnehaha County.
10. City Council: The City Council of Brandon, South Dakota.
11. Credentialing: The process of authorization to any person to act as a paramedic, EMT, Dispatcher or First Responder within the County Emergency Medical Services System.
12. County Emergency Medical Services System: The system consisting of all volunteer, private and governmental Basic Life Support Services, Advanced Life Support Services, and 9-1-1 Public Safety Answering Points (PSAPs) and First Responder Agencies which utilize state certified emergency medical personnel under the supervision of the County Medical Director or the EMS Director.
13. Emergency Medical Condition: A medical condition manifesting itself by acute symptoms of sufficient severity, such that the absence of immediate medical attention could reasonably be expected to result in any of the following:
  - a. Serious jeopardy to patient health.
  - b. Serious impairment to bodily functions.
  - c. Serious dysfunction of any bodily organ or part.
14. Emergency Medical Dispatch: The system of emergency medical call taking designed to dispatch the appropriate level of services based on established criteria and provide pre-arrival emergency medical instructions to the caller until EMS arrives.
15. Emergency Medical Services (EMS) Provider: Any basic life support service, or advanced life support service which possesses a License and engages in the business of providing emergency medical services.
16. Emergency Medical Technician (EMT): A person who has completed an Emergency Medical Technician course and is currently certified by the South Dakota Department of Health or successor state agency, and trained in emergency medical care in accordance with standards prescribed by rules and regulations promulgated pursuant to SDCL SS 34-11-6.

17. First Response: The provision of non-transport emergency medical services designed to provide initial stabilization of patients suffering from medical conditions.
18. Ground Ambulance: A motor vehicle operated over public roadways under the jurisdiction of this state and which is in compliance with South Dakota law and South Dakota Administrative Rule.
19. Ground Ambulance License: A license issued by the City authorizing a Licensee to provide ground ambulance services within the City. Any Licensee under this Ordinance must also be licensed in accordance with the laws of the State of South Dakota.
20. Licensee: The entity licensed by the City to provide Ground Ambulance Services within the City of Brandon.
21. Medical Director: A licensed physician dedicated to the provision of emergency medical services as defined by South Dakota Codified Laws, Chapter 36-4B, employed or provided under a written contract by the Licensee to supervise and accept responsibility for the medical performance of any Licensee operating within the City's emergency medical services system. The Medical Director shall perform such duties and responsibilities as may be assigned by the written contract of employment, position description, this ordinance and South Dakota Codified Law. The Medical Director provides medical control through written protocols, on-line supervision, continuing education, and quality assurance and improvement.
22. Paramedic: A person licensed by the South Dakota Board of Medical and Osteopathic Examiners who is authorized to perform basic and advanced support, pursuant to the provisions of South Dakota Codified Laws, Chapter 36-4B.
23. Patient: A person who is in need of emergency medical treatment or emergency transportation.
24. Person: Any living being, or any corporation, partnership or other business entity.
25. Pre-Hospital: The out of hospital provision of ALS or BLS treatment and/or transport services to a patient who has a medical condition.
26. Principal of Record: The Chief Executive official of an EMS Provider.
27. Priority 1: Life threatening emergencies as designated by the Public Safety Answering Point.
28. Priority 2: Non-life threatening emergencies as designated by the Public Safety Answering Point.
29. Priority 3: Non-emergencies as designated by the Public Safety Answering Point.

30. Public Safety Answering Point: A communications center designated to receive 9-1-1 calls.
31. Response Time: The time as measured in minutes and seconds from the point the call is dispatched to the Licensee by the Emergency Medical Dispatch 911 communications center to the time the Licensee arrives to the scene of the medical call.
32. Treatment Protocols: The protocols approved by the Licensee's Medical Director directing the assessment, treatment, and transport of patients as defined herein.
33. Transporting: Transporting a patient originating with the City of Brandon to a destination with the county.

### **6-7-3 LICENSE REQUIRED**

Except as provided herein, no person shall operate a ground ambulance service transporting patients as defined in this ordinance from within the City, nor advertise or offer such service to the public, unless the operator of such service shall have first obtained a ground ambulance service license from the City.

Advanced EMS providers providing emergency medical care within the City of Brandon must be affiliated with a licensed ground ambulance service.

The license requirement herein shall not apply to the following:

1. A service that is transporting patients from within the City only pursuant to written mutual aid agreements with licensed providers or intercepts which agreements have been approved by the City; or
2. An entity that is providing air ambulance services.
3. Any emergency vehicle owned or directly operated by the federal or state government or any of their military services.
4. An EMS Provider licensed and qualified under South Dakota law, Minnehaha County ordinance, or municipal ordinance responding and rendering services under a current, executed written mutual aid agreement, at the request of a signatory to the mutual aid agreement during a major catastrophe when vehicles based in the locality of the catastrophe are incapacitated or insufficient in number to render the services needed.

### **6-7-4 PRIMARY SERVICE AREA OF LICENSEE**

The license shall be for the geographic boundaries of the City of Brandon, South Dakota.

### **6-7-5 SECONDARY SERVICE AREA/FIRST LEVEL MUTUAL AID**

Any dispatch of a Licensee by a Public Safety Answering Point to provide first level mutual aid

to another Licensee shall be determined by location technology as determined by the Public Safety Answering Point with preference to the closest available Licensee.

#### **6-7-6 LICENSE APPLICATION**

An applicant for a ground ambulance license with the City shall make application in writing to the City on such form which shall be provided by the City and include such terms as required by the City. The application shall be filed with the City of Brandon's Finance Officer Office. The application shall be verified by the person making the application and shall contain all licensure requirements required by the City and as required by South Dakota law and Administrative Rule.

#### **6-7-7 CREDENTIALING**

All Licensees, their employees and agents shall meet the licensure requirements of SDCL §§ 36-4B-17 and SDCL Ch. 34-11 and any other applicable provision of statute. In addition, all Licensees, their employees and agents shall submit to and pass a background check approved by the City.

#### **6-7-8 LICENSEE DUTIES**

The Licensee shall:

1. Respond, as defined herein Section 6-7-2(28), to ninety (90) percent of all Priority 1 and 2 emergency calls received within eight (8) minutes and fifty-nine (59) seconds and all Priority 3 calls with sixteen (16) minutes and fifty-nine (59) seconds after receiving the call;
2. Abide by all medical protocols and quality improvement processes authorized by the Medical Director;
3. Submit data to the Medical Director for purposes of quality control;
4. Have a written contract with the Medical Director that states the duties of the Medical Director;
5. Display a copy of the license on the premises of the business at all times;
6. Provide Advanced Life Support Services;
7. Be available for services Twenty-four (24) hours a day, seven (7) days per week and have the ability to maintain this requirement with sufficient call answering, staffing and vehicle availability to meet this requirement. All Licensees must be accounted for on the status board of the Public Safety Answering Point;
8. For each ambulance run, have a minimum of one (1) Paramedic and one (1) Emergency Medical Technicians onboard. These staffing requirements shall only apply when patient care and transport are occurring;
9. Comply with the State of South Dakota's requirements for equipment and supplies;

10. For every run, carry such additional equipment and supplies as specified by the Medical Director or Quality Assurance Director for the ambulance service;
11. Provide quarterly reports to the Brandon City Council regarding staff training, response times, with 90<sup>th</sup> percentile averages and any other quality assurance improvements;
12. Complete an annual compliance billing audit, with random 10 chart review, on or before the renewal date and within 90 days of the initial license period, by an independent third-party administrator;
13. Comply with South Dakota law, South Dakota Administrative Rule, and any additional requirements of the Licensee's Medical Director as to sanitation and safety, as well as any other standards as set forth therein for licensure of ambulance services and personnel;
14. Notify the City not less than Sixty (60) days prior to any change in legal status, ownership, control or shareholders of the organization, and notify the City within ten (10) days if any information contained in the application shall change or for any reason become inaccurate (failure to comply with this provision may result in suspension or revocation of any license as authorized herein);
15. As to insurance, the Licensee shall
  - a. Hold the City harmless from all liability for damages to persons or property arising out of the operation of the ambulance or from services performed pursuant to the license;
  - b. Provide comprehensive liability insurance naming the City an additional insured, with the following minimum limits:
    - i. Property damage of five hundred thousand dollars (\$500,000) per incident.
    - ii. Personal injury for one person of five hundred thousand dollars (\$500,000) per incident.
    - iii. Personal injury for one accident of one million dollars (\$1,000,000) in the cumulative.
  - c. Have no less than two million dollars (\$2,000,000) per occurrence employee professional liability insurance with an annual aggregate of no less than three million dollars (\$3,000,000) or in lieu of the annual aggregate, may purchase an umbrella policy to meet the limits indicated; and

- d. Have certificates of insurance showing the City as an additional insured, which shall be filed with the City within two (2) weeks after the license application has been approved.

#### **6-7-9 COMPLIANCE WITH REGULATIONS**

An application for a ground ambulance license is considered to be an agreement with and acceptance of all record-keeping requirements as required by the South Dakota Bureau of Administration — Record Managements Program, or its equivalent, and other provisions of this Ordinance both now and as it may from time to time be amended in the future. Failure to comply with the provisions of this Ordinance or unsatisfactory quality assurance reviews may subject the Licensee to suspension or revocation of the license.

#### **6-7-10 LICENSE TERM**

Ground ambulance licenses are issued for a two (2) year period. Any license may be renewed one time by the City for an additional two (2) year period so long as the Licensee is in compliance with federal, state and local law and all existing application requirements and timely completes the City's renewal form. After the expiration of either a license or renewal, any subsequent license may only be issued upon the successful completion of the City's initial licensure procedures.

#### **6-7-11 QUALITY ASSURANCE REQUIRED**

Quality assurance evaluation will set a standard that is realistic, attainable and appropriate where performance can be measured, analyzed, modified and remeasured to evaluate and improve the overall function and care provided. On a monthly basis, Licensees shall provide data and information for quality assurance purposes to the Medical Director in accordance with the business associates agreement executed by the Licensee.

Quality Assurance Program shall include but not be limited to: medical treatment protocol development and review; ensure and document annual skills competency for the Licensee's EMS staff; test protocol knowledge; prospective and retrospective chart and run reviews for feedback and education on all Priority 1 and 2 calls; review protocol compliance and appropriateness of treatment; and review of calls that deviated from standard protocols, cardiac arrest, chest pain, stroke, respiratory arrest, airway compromise, unconsciousness, pediatrics or trauma on a monthly basis.

#### **6-7-12 MEDICAL DIRECTOR REQUIREMENTS**

The Licensee's Medical Director shall:

1. Develop and review medical treatment protocols, provide clinical supervision, and provide quality improvement activities for daily operations and training pursuant to this Ordinance and pursuant to South Dakota law;



2. Supervise the clinical performance and training of all Licensees, the EMI's, EMTs, and Paramedics operating as part of the Licensee's Emergency Medical Services system.
3. Conduct monthly education/training, run reviews, weekly chart reviews, review high risk procedures, patient outcomes, run time compliance.
4. Provide to the City an annual report stating whether the Licensee is compliant with its submissions to the Director and delivery of quality of care required.;
5. Have a contract with the Licensee that states the duties of the Medical Director.
6. Notify the City of any material deviations from or changes to the standard protocols as set forth in the Quality Assurance Program.

#### **6-7-13 CONFIDENTIALITY**

Confidentiality of both patient and employee records shall be maintained by the ambulance service, by the Medical Director, by the City, and by the individual, agency, or review boards designated by the City as its entity or entities for quality assurance review. These records may not be released nor may the information in them be shared with any other person, entity or governmental body without the express written consent of the patient or in compliance with the order of a court of competent jurisdiction.

#### **6-7-14 QUALITY ASSURANCE AUDIT**

The City of Brandon may appoint an individual, committee, or agency to conduct an independent audit related to quality assurance review of the Licensee's compliance with the City's ordinances and the Licensee's Quality Assurance Program. If a quality assurance audit is conducted, then the Licensee shall comply with any request for information for the review to be conducted. The quality assurance audit shall at all times comply with any state or federal laws regarding patient privacy.

**6-7-15 SUSPENSION AND REVOCATION OF LICENSE**

Any violations of this Ordinance may result in the suspension, revocation or nonrenewal of a license. Any action which may result in the suspension or revocation of the ground ambulance license by the City shall follow the procedure as provided herein and the administrative procedures required in SDCL Ch. 1-24.

**6-7-16 PROCEDURES FOR SUSPENSION AND REVOCATION OF LICENSE FOR GROUND AMBULANCE SERVICES: NOTICE, HEARING AND APPEAL**

In the event of a violation of federal, state, or local law or ordinance, including but not limited to this Ordinance, by any Licensee, their agents or successors, the following procedure shall be followed unless an informal disposition is agreed to by the Licensee and the City:

1. Upon receipt of a recommendation of suspension or revocation from the Medical Director or a Quality Assurance Review report, the City shall cause written notice of the recommendation to be served upon the Licensee by U.S. Mail, Certified Letter, Return Receipt Requested. The notice shall state the nature of the recommendation and the reasons for the recommendation in sufficient detail so as to allow the Licensee the ability to respond.

2. In cases of extreme risk to the citizens of the City, the notice may include an immediate order to suspend any ambulance services within the City pending further review. Any Licensee receiving notice of a recommendation of suspension or revocation, shall respond in writing within twenty-four hours from the date and time of the receipt of the notice. The response shall include any information that the Licensee believes material to the recommendation, and may include a corrective action plan for violations that the Licensee admits have occurred. Within ten (10) working days after receipt of the Licensee's written response, the Brandon City Council, with at least a quorum present, shall hold a hearing to determine whether the recommendation of suspension or revocation should be implemented. In the event the notice shall require immediate suspension of ambulance service pending City Council review, the hearing shall be held as soon as is possible, but in no event more than three (3) days after receipt of the ambulance services written response, unless the service shall request an extension of time to prepare for the hearing.

3. Written notice of the hearing on the proposed suspension or revocation of the license due to alleged violations of this Ordinance shall be served upon the Licensee at least twenty-four hours in advance of the scheduled hearing. The written notice shall comply with the provision of SDCL Ch. 1-24, the South Dakota Administrative Procedures Act, regarding contents of notice in contested cases.

4. At such hearing, opportunity shall be afforded all parties to respond and present evidence on issues of fact and argument relevant to the issues. A party to the proceeding may appear in person, or by counsel, or by both, may be present during the giving of all

evidence, may have a reasonable opportunity to inspect all documentary evidence. may examine and crossexamine witnesses, may present evidence in support of his position, and may have subpoenas issued to compel the attendance of material witnesses and for the production of material evidence. All witnesses shall be sworn and there shall be a record of the proceedings kept by the City either through use of a certified court reporter or by an audio or video recording.

5. The parties may submit proposed findings of fact within one (1) week of the hearing. Objections may be submitted by either party and are due within five (5) business days after service of the proposed findings.

6. The City shall enter written findings of fact and a decision.

7. The formal record of the hearing shall include all pleadings, notices, motions, and written rulings, if any; all evidence received and considered; a statement of the issues raised by the City which were challenged by the Licensee; proposed findings of fact and decision and objections to the proposed findings of fact and decision (if any were filed); and the final findings of fact and decision of the City Council. In addition, all evidence received or offered and not received shall be maintained in the formal record of the proceedings.

8. Any final decision of the City Council shall take into consideration the totality of the evidence presented and shall be based upon a determination of what best serves the health and safety of the citizens of City of Brandon. Any final decision of the City Council may be appealed by any person aggrieved by the decision, to the Circuit Court, Second Judicial Circuit, in accordance with the statutes of the State of South Dakota. Failure of the City to issue written decision within thirty (30) days of the date of hearing shall be treated as a decision adverse to the Licensee and Licensee shall have the right of appeal from the record as it then exists.

#### **6-7-17 ENFORCEMENT**

1. Any person or entity required to be licensed under this ordinance and who conducts ground ambulance services within the City of Brandon without first obtaining a ground ambulance license, shall be guilty of a Class 2 Misdemeanor. Each and every individual act constituting a violation of this Ordinance is to be considered a separate offense. Each and every day in which an ambulance service is operated without a license in violation of this Ordinance is to be considered a separate offense.

2. The provisions of this Ordinance may be enforced by injunction or other appropriate civil proceeding or remedy authorized by law.

3. Any Licensee in violation of this ordinance is subject to suspension, revocation or nonrenewal of a license.

**6-7-18 EMERGENCY POWERS**

1. The City Council in consultation with the Licensee’s Medical Director, may for the health, welfare and safety of its citizens or in the best interest of the City to protect the best interests of the City temporarily set aside any or all provisions of this Ordinance for such period as is necessary. This shall include but not be limited to suspending, terminating or granting licenses to providers or other acts in furtherance of the health, welfare and safety of the public.
  
2. If any provision of this ordinance is for any reason finally held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision. and such holding shall not affect the validity of the remaining provision.

Adopted this 16<sup>th</sup> day of December, 2019.

---

Paul Lundberg  
Mayor

ATTEST:

---

Christina Smith  
Municipal Finance Officer

(SEAL)

First Reading: November 18, 2019  
Second Reading: December 16, 2019  
Published: December 24, 2019  
Effective Date: January 14, 2020

## Bryan Read

---

**From:** Lisa K. Marso <lkmарso@boycelaw.com>  
**Sent:** Monday, December 16, 2019 7:51 AM  
**To:** Bryan Read  
**Subject:** Ambulance-EMT issue

Bryan: Here are 2 options I thought of for BO 6-7-8 (8); I was also thinking that if you have more than 2 ambulances out, it is more likely than not that Metro would be dispatching another service, but I guess I don't know how many ambulances a Licensee may have and I think we should be drafting for the idea of what we want (not that one specific provider always is the Licensee for the City). As mentioned, I'm not a fan of 90% of the time as that means that the Licensee could have the first ambulance go out with just 2 EMTs when it wanted to staff that way, hoping for no calls. Please circulate to whomever you think it should be reviewed prior to the meeting as I'm not sure who all is involved at this point:

Option 1: For ambulance runs when patient care and transport are occurring, have a minimum of one (1) Paramedic and one (1) Emergency Medical Technicians onboard ("minimums"). These minimums shall apply for the first two ambulances that are dispatched during the same time period; thereafter each dispatched ambulance shall have at least two (2) Emergency Medical Technicians onboard;

Option 2: For ambulance runs when patient care and transport are occurring, have a minimum of one (1) Paramedic and one (1) Emergency Medical Technicians onboard ("minimums"). These minimums shall apply for each run unless the Licensee is able to demonstrate extraordinary circumstances exist such as numerous (or more than two--pick which phrase to use) runs being dispatched at the same time;

(Existing: For each ambulance run, have a minimum of one (1) Paramedic and one (1) Emergency Medical Technicians onboard. These staffing requirements shall only apply when patient care and transport are occurring)

See you tonight.

Lisa K. Marso  
Boyce Law Firm, L.L.P.  
300 S Main Ave  
P.O. Box 5015  
Sioux Falls, SD 57117-5015  
Phone: (605) 336-2424 or (605) 731-0209  
Facsimile: (605) 334-0618  
[lkmарso@boycelaw.com](mailto:lkmарso@boycelaw.com)  
boycelaw.com

NOTICE: The information contained in this message is intended to be confidential and is protected by the attorney-client privilege and work product doctrine. If you are not the intended recipient, or believe that you have received this communication in error, please do not read, print, copy, retransmit, disseminate, or otherwise use the information contained in this communication. Also, please notify the sender that you have received this communication in error and delete the copy you received. Thank you.