

# **ORDINANCE**

**17-26**

**ORDINANCE NUMBER 17-26**

**AN ORDINANCE AMENDING HILLSBOROUGH COUNTY ORDINANCE 06-9 (HILLSBOROUGH COUNTY CODE OF LAWS AND ORDINANCES, CHAPTER 22, ARTICLE IV, SECTIONS 22-86 THROUGH 22-100), AS AMENDED, PERTAINING TO THE REGULATION OF EMERGENCY MEDICAL TRANSPORTATION ENTITIES; PROVIDING FOR THE ADDITIONAL REGULATION OF BASIC LIFE SUPPORT AMBULANCE SERVICES; PROVIDING FOR INCLUSION IN THE HILLSBOROUGH COUNTY CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Hillsborough County Board of County Commissioners (Board) enacted Hillsborough County Ordinance 06-9 (Hillsborough County Code of Laws and Ordinances, Chapter 22, Article IV, Sections 22-86 through 22-100), as amended, to regulate emergency medical transportation service to the residents of Hillsborough County; and

**WHEREAS**, the regulation of basic life support ambulance services was previously regulated by the Hillsborough County Public Transportation Commission; and

**WHEREAS**, the Florida State Legislature has recently dissolved the Hillsborough County Public Transportation Commission; and

**WHEREAS**, the Board has determined that it is in the best interest of the citizens of Hillsborough County to amend this ordinance to provide for regulation of basic life support ambulance services; and

**WHEREAS**, implementation of this amendment to Hillsborough County Ordinance 06-9 (Hillsborough County Code of Laws and Ordinances, Chapter 22, Article IV, Sections 22-86 through 22-100) is in the best interest of the citizens of Hillsborough County.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, THAT:**

**SECTION 1.** The aforementioned recitations are incorporated herein by reference.

**SECTION 2.** Hillsborough County Code of Laws and Ordinances, Chapter 22, Article IV, Sections 22-86 through 22-100 is amended to read:

**ARTICLE IV. - EMERGENCY MEDICAL TRANSPORTATION**

**Sec. 22-86. - Purpose and scope.**

This article is enacted pursuant to F.S. § 401.25(6) for the purpose of providing standards and necessary regulations for the issuance of certificates of public convenience and necessity for

advanced life support service, medical stand-by services, basic life support services within Hillsborough County, and rotary-wing air ambulance services. This article shall apply and be in force within the incorporated and unincorporated areas of Hillsborough County except as otherwise specified by this article.

(Ord. No. 06-9, § 1, 4-7-2006)

Sec. 22-87. - Definitions.

(a) When used in this article, the following terms shall mean:

*Air ambulance service* means any publicly or privately owned service, licensed in accordance with F.S. Ch. 401 which operates a 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.

*Ambulance service provider* means any publicly or privately owned service, licensed in accordance with F.S. Ch. 401, providing air ambulance service, advanced life support transportation by ambulance, or basic life support transportation by ambulance within Hillsborough County, or a municipality located within Hillsborough County providing basic life support transportation by ambulance within Hillsborough County.

*Basic life support ambulance* means any privately or publicly owned Vehicle, except those operated by any Municipality, that is designed, constructed, reconstructed, maintained, equipped, or operated for and is used for or intended to be used for transportation of sick or injured persons requiring or likely to require medical attention during transport by qualified persons through the use of techniques such as patient assessment, cardiopulmonary resuscitation, splinting, obstetrical assistance, bandaging, administration of oxygen, application of medical anti-shock trousers, administration of a subcutaneous injection using a premeasured auto injector of epinephrine to a person suffering an anaphylactic reaction, and other techniques described in the Emergency Medical Technician Basic Training Course Curriculum of the United States Department of Transportation or the Florida Department of Health and the requirements of Chapter 401, Florida Statutes.

*Board* means the Board of County Commissioners of Hillsborough County or any designee which the Board may authorize.

*Certificate* means a certificate of public convenience and necessity issued by the Board.

*Council* means the Emergency Medical Planning Council as appointed by the Board of County Commissioners.

*Governmental service provider* means any ambulance service provider or medical stand-by service provider, owned and operated by the United States Government, Hillsborough County

Government, or the government of a municipality located within Hillsborough County while operating within that respective government's jurisdiction, or, if operating outside of its jurisdiction pursuant to a mutual aid agreement or pursuant to a contract to provide medical stand-by service. A governmental service provider does not include a private entity operating on behalf of a governmental service provider by virtue of a contract or agreement.

*Hearing officer* means a person designated by the Council to perform the duties prescribed by this article and the rules and regulations adopted in accordance with this article, who is licensed and in good standing with the Florida Bar and who has demonstrated experience of at least five years in administrative law in Florida.

*License* means any license issued by the State of Florida pursuant to F.S. Ch. 401.

*Medical stand-by* means a pre-hospital, advanced life support or basic life support service, without provision of transportation by ambulance or air ambulance, provided for compensation by a paramedic or emergency medical technician at local community events such as concerts, sporting events, fairs, and festivals. Medical stand-by does not include provision of advanced life support or basic life support services by any person licensed by the State of Florida as a physician, registered nurse, nurse practitioner, or licensed practical nurse. Medical stand-by also does not include provision of advanced life support or basic life support services at a hospital, permanent medical clinic, nursing home, or at any temporary or permanent clinic for the indigent.

*Medical stand-by service provider* means any publicly or privately owned service providing medical stand-by service.

*9-1-1 emergency* means non-prearranged air ambulance service or advanced life support service precipitated by a request for immediate medical care of a sick, injured, wounded, incapacitated, or helpless person(s).

*Permit* means a license issued by the Board to allow the operation of a particular ambulance (advanced or basic life support) or air ambulance for which a certificate has been issued.

*Rules and regulations* means those specific requirements and guidelines promulgated and approved by the Board or its designee.

(b) Any term used and not otherwise defined in this article shall have the meaning given to it by F.S. Ch. 401, pt. III, (F.S. § 401.2101 et seq.). Any term not defined in this article and not defined in F.S. Ch. 401, pt. III, (F.S. § 401.2101 et seq.) shall first be construed using the meaning commonly given to the term within the medical transportation service industry, or, second, using its common everyday meaning.

(Ord. No. 06-9, § 2, 4-7-2006; Ord. No. 08-12, § 1, 6-6-2008)

Sec. 22-88. - Certificates required; exemptions.

Every ambulance service provider and medical stand-by service provider must obtain a certificate from the Board except for the following:

- (1) A person or entity operating a privately owned vehicle not ordinarily used or intended for the transportation of persons who are sick, injured, wounded, incapacitated, or helpless.
- (2) A person or entity operating a vehicle rendering services as an ambulance in the event of a major catastrophe or emergency when ambulances with permits based in the locality of the catastrophe or emergency are incapacitated or insufficient in number to render the services needed.
- (3) Any ambulance service provider or medical stand-by service provider licensed in another state or U.S. territory, except that any such provider receiving a person within Hillsborough County for transport or providing medical stand-by service in Hillsborough County shall require a certificate and, if applicable, a permit.
- (4) A person or entity operating a vehicle under the direct supervision of a licensed physician and used as an integral part of a private industrial safety or emergency management plan within a privately owned and controlled area, which vehicle may from time to time be used to transport persons in need of medical attention, but which is not available to the general public and which does not routinely transport patients.
- (5) Any organization or person that provides transport services, if:
  - a. The service is a public bus system;
  - b. The service is a public or private school bus system transporting school children to and from school or school-related activities; or
  - c. The service is a non-emergency medical transportation service, including stretcher, handicap, or wheelchair car service.
- (6) A hospital operating a vehicle or apparatus to transport patients within one hospital campus at the same location, or, for inter-facility transports between the hospital's campuses at different locations, provided such transportation is provided at no charge to the patient.
  - a. For purposes of this subsection, the term "hospital" shall mean any establishment that:
    1. Offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond

24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and

2. Regularly makes available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent.
- b. For purposes of this subsection, the term "operating a vehicle or apparatus" shall not include the contracting out of transportation services to a person or entity not an employee, subsidiary or parent corporation of the hospital.

(Ord. No. 06-9, § 3, 4-7-2006)

Sec. 22-89. - Classes and subclasses of service.

(a) Classes of service:

- (1) Ground—any ambulance service provider or medical stand-by service provider.
- (2) Air—any air ambulance service.

(b) Subclasses of service:

- (1) Inter-facility transfer.
- (2) 9-1-1 Emergency (governmental entities only).
- (3) Medical stand-by.

(Ord. No. 06-9, § 4, 4-7-2006)

Sec. 22-90. - Certificate and application requirements.

(a) Each applicant for a certificate shall indicate the class of service, subclass(es) of service, and number of permits applied for.

- (1) A separate certificate is required for each class of service.
- (2) A certificate may authorize one or more subclasses of service.
- (3) The Board may impose any reasonable restriction or limitation on the certificate as is determined to be in the public interest.
- (4) A certificate holder may not operate more ambulances or air ambulances than the number of permits authorized by its certificate. If its certificate is approved, a governmental service provider shall be granted an unlimited number of permits.

- (5) Only governmental service providers may apply for or be granted authority to perform 9-1-1 emergency subclass of service.
- (6) Regardless of the number of permits authorized by a certificate, no certificate holder may operate any vehicle not permitted by the State of Florida pursuant to F.S. Ch. 401.
- (7) No non-governmental applicant shall perform medical stand-by subclass of service unless each governmental service provider with jurisdiction over the particular location where the medical stand-by service is to be performed has indicated that it is unwilling or unable to provide the medical stand-by service using the governmental service provider's own forces.

This provision does not apply to governmental applicants who may provide on-duty or off regular duty, part-time medical stand-by service by contract at venues throughout Hillsborough County including the municipalities therein.

- (b) Each application for a certificate shall be on a form approved by the Council and each applicant shall indicate, in addition to any other information required by the Council, the following:
  - (1) The class of service applied for.
  - (2) The subclass(es) of service applied for.
  - (3) The number of permits applied for. The number of permits may be adjusted downward by the applicant prior to or during the hearing officer public hearing. If its certificate is approved, a governmental service provider will be granted an unlimited number of permits.
  - (4) Any other restrictions, limitations, expansions, or conditions on operation that the applicant wishes to be considered.
- (c) For the purpose of review of applications, the Board, the Council, the Hearing Officer or their designated representatives may perform reasonable inspections of any item relevant to the requirements of this article. The Board, the Council, the Hearing Officer or their designated representatives may reasonably require that the applicant or any current certificate holder submit information as may be necessary to consider a pending application.
  - (1) The Council or its designee may review the application for completeness and may require the applicant to submit additional items needed to complete the application. The application must be complete at least 30 days prior to the date of the Council or Hearing Officer public hearing.
- (d) Each completed application for a certificate may be reviewed by the Council or may be submitted by the Council to a Hearing Officer for review. The Council or the Hearing Officer

shall hold a public hearing for the purpose of considering the application for a certificate. The applicant and all current certificate holders shall be notified by certified mail, not less than ten days prior to the public hearing, of the date, time, and place of the Council or Hearing Officer public hearing.

- (1) Any current certificate holder and any person or entity who can demonstrate a financial or public safety interest in the application may intervene in the public hearing process by filing a written notice of intervention no later than five business days prior to the date of the initial Council or Hearing Officer public hearing.
- (2) The applicant and any interveners shall pay all costs of the hearing in equal shares. If there are no interveners, the applicant shall pay all costs of the hearing.
- (3) The applicant has the burden of establishing whether public convenience and necessity require the services proposed in the application.
  - a. A rebuttable presumption of need and necessity shall exist when considering applications of governmental entities.
- (4) At the Council or Hearing Officer public hearing, the Council or Hearing Officer shall consider the application and any information submitted at the hearing, and shall determine whether the public convenience and necessity of the residents of Hillsborough County would best be served by granting or denying the application with or without reasonable restrictions or limitations. The Council or Hearing Officer and the Board may require the parties to submit statements of the facts and memoranda on the issues of law; may compel attendance of witnesses and production of evidence; may administer oaths and take testimony; may reasonably limit the scope of cross-examination to relevant matters raised on direct examination of a witness; shall consider all the evidence properly adduced at the hearing; and shall generally conduct the hearing in a manner that affords all participants administrative due process.
- (5) In determining public convenience and necessity, the Council or Hearing Officer and the Board shall consider:
  - a. The number of private providers and governmental service providers currently providing the class and subclass(es) of service applied for and the type and quality of service provided.
  - b. The historical and projected requests for service in the particular class and subclass(es) of service applied for, in comparison with the current number of providers and permitted vehicles satisfying such requests.
  - c. The historical performance of the applicant, if any, and the quality of the applicant's service within the proposed class and subclass(es) of service.



- d. The financial status, character, and responsibility of the applicant in relation to the applicant's ability to provide, maintain, and operate the number of permits requested and to provide service to the proposed class and subclass(es) of service.
  - e. The condition of the vehicles and equipment proposed to be utilized by the applicant, the vehicle maintenance plan, and any other facts relating to the safety of the vehicles and equipment.
  - f. The adequacy of the management plan of the applicant.
  - g. The recommendations of the department(s) responsible for providing emergency medical care, or medical transportation, for Hillsborough County and for all municipalities located within Hillsborough County.
  - h. For hearing officer public hearings, the testimony and recommendations, if any, of the Council or any of its members.
- (6) In considering the application, the Council or Hearing Officer and the Board may consider:
- a. The recommendations of any governmental entity located within Hillsborough County.
  - b. The applicant's past performance record, if any, in providing basic life support services or whether the applicant intends to operate basic life support services within Hillsborough County. In judging past performance in providing basic life support services, the criteria shall be the applicant's compliance with standards as previously approved by resolution by the Board.
  - c. Pending applications for certificates to operate within the class or subclass(es) of service applied for.
  - d. Any other facts or circumstances that would indicate whether the proposed service is in the public interest.
- (e) Following the Council or Hearing Officer public hearing, the Council or Hearing Officer shall forward a written recommendation to the Board with copies to the Council, the applicant, any interveners, and all current certificate holders. The Board shall hold a Board public hearing for the purpose of considering the Council or Hearing Officer's recommendation. All applicants, interveners, and all current certificate holders shall be notified by certified mail, not less than ten days prior to the public hearing, of the date, time, and place of the Board public hearing.
- (1) If the public hearing is conducted by a Hearing Officer, at least five days prior to the Board public hearing, the Council may submit to the Board a written recommendation

for grant or denial of the certificate, with copies to the applicant, all interveners and the hearing officer. The Council's recommendation shall not present new facts that were not considered at the hearing officer public hearing.

- (2) The Board shall take final action affirming, reversing, or modifying the Council or Hearing Officer's recommendations. The Board shall consider only facts presented at the Council or Hearing Officer public hearing. If the Board determines that new facts have been offered which were not available or were not produced at the time of the Council or Hearing Officer public hearing, the Board may remand the report and recommendations to the Council or Hearing Officer and shall set the date, time, and place of another Board public hearing, with proper notice to the applicants, interveners, and all current certificate holders of such supplementary public hearing. After remand, the Council or Hearing Officer may conduct further public hearings, and may take any other action necessary to determine the merits of the application. Thereafter, the Council or Hearing Officer shall file a supplemental report with the Board for its final action affirming, reversing, or modifying the recommendations. The Board may conduct such further hearings and make such additional investigations as it deems necessary before taking final action.
  - (3) If the Board determines that public convenience and necessity will not be promoted by approval of the application, then the application shall not be approved. If the Board finds that public convenience and necessity will be promoted by the approval of the application, then the application shall be approved subject to any limitations or restrictions reasonably required by the Board.
- (f) The Council and the Board will endeavor to process and consider applications for certificates in the order in which they are received.
- (g) Any applicant whose application for a certificate or additional permits is denied by the Board may not submit another application for a certificate or additional permits within the same class of service, until a minimum of 12 months has passed, measured from the date the application was denied by the Board.
- (1) As used within this subsection, the term "applicant" shall include the applicant in the previously denied application, its parent-corporation(s), subsidiaries, affiliates, successors, and assigns.
  - (2) As used within this subsection, the term "denied" shall mean a complete disapproval of a certificate or in the case of applications for additional permits, a disapproval of any of the additional permits applied for.
- (h) No certificate issued pursuant to this article is assignable or transferable except upon approval by the Board in the same manner and subject to the same application, investigation, fees and public hearings as initial applications for certificates.

- (1) Any majority transfer of shares of stock or interest of any person or operator so as to cause a change in the officers or stockholders of more than 20 percent of the shares of such certified service shall be deemed a transfer or assignment. If, upon consideration of the proposed transfer or assignment, the Board does not approve the transfer or assignment, then the certificate shall be considered void as to the transferee.
  - (2) With the express written consent of the certificate holder, a prospective transferee may, following filing of a transfer application with the Council, enjoy the beneficial use of the certificate and any permits associated therewith until the Board renders a final decision on the application, or for a period not to exceed 120 days from the date the transfer application is filed, whichever is less. The Council may extend the period of beneficial use for good cause but shall not extend the period beyond the date of a final decision by the Board on the application.
- (i) Beneficial use of a certificate is expressly subject to and conditioned upon the consent of the transferee to abide by all obligations of the transferor with respect to this article and the rules and regulations, and any restrictions, limitations or conditions imposed on the certificate. Any violation thereof by the transferee shall be grounds for immediate revocation of the beneficial use privilege or denial of the application for transfer, or both.

(Ord. No. 06-9, § 5, 4-7-2006; Ord. No. 08-12, § 2, 6-6-2008)

Sec. 22-91. - Certificate renewal.

- (a) Each initial certificate shall be valid until September 1 of the second calendar year following the year the certificate was granted.
- (1) Certificates transferred or assigned shall be considered initial certificates.
  - (2) Subsequent renewed certificates shall be valid for two years beginning on September 1 of the year of renewal unless otherwise revoked or suspended.
- (b) Applications for renewal of certificates shall be made on forms with required attachments approved by resolution by the Board and received not later than September 1 of the year in which a certificate expires. The time for renewal of certificates may be extended for good cause by the Board or its designee upon recommendation of the Council.
- (c) Each application for renewal shall indicate any material changes to the status of the certificate holder occurring after receipt of the certificate and previous renewals.
- (1) For purposes of this subsection, material changes to a non-governmental service provider certificate holder shall include:
    - a. Bankruptcy or application for bankruptcy of the certificate holder.

- b. If performing basic life support services, any finding by the Council or a hearing officer that the certificate holder has failed to consistently conform with minimum basic life support standards as adopted by resolution by the Board.
  - c. Administrative, civil, or criminal actions, to include warnings and cease and desist notices, but not minor non-criminal infractions such as code enforcement actions or traffic tickets, against the certificate holder or, if applicable, any of its managers, officers or directors by any State or local governmental entity.
  - d. Civil judgments against the certificate holder wherein the allegations against the certificate holder arose from the provision of advanced life support or basic life support services.
  - e. Failure to use all vehicles permitted under the certificate.
- (2) For purposes of this subsection, material changes to a governmental service provider certificate holder shall include:
- a. Unincorporation or revocation of the governmental entity's charter.
- (d) In the absence of material changes as indicated in Subsection (c) of this section, or as may be determined by the Council, the certificate shall be renewed by the Board or its designee.
- (e) If material changes have occurred to the certificate holder since receipt of the certificate or the date of last renewal, whichever is later, or if the Council reasonably determines that a reapplication for certificate would be in the public's best interest, then the certificate holder shall submit an application for certificate and shall be subject to all procedures and requirements as set forth in Section 22-90.
- (1) If the application for a renewal of a certificate is denied, then the certificate shall be considered expired as of the date of the denial.
- (f) During the renewal process, the certificate and all valid permits shall remain in effect until such time as a final decision on the renewal has been rendered by the Board or its designee.

(Ord. No. 06-9, § 6, 4-7-2006)

Sec. 22-92. - Permits.

- (a) Each ambulance service provider certificate holder will be granted authorization for a specific number of vehicle permits during the initial certificate approval process.
  - (1) If granted a certificate, governmental service providers will be granted certificates authorizing an unlimited number of permits.

- (2) No certificate holder shall operate more vehicles than the number of permits authorized by its certificate.
- (b) A certificate holder may apply for additional permits, subject to all of the procedures and requirements of Section 22-90.
  - (1) Additional permits will only be issued within the same class of service as the certificate under which they are applied for. Additional permits may be issued authorizing different subclasses or with different limitations or restrictions from existing permits.
  - (2) No additional permits may be requested if the certificate holder possesses permits that are not in use at the time the application for additional permits is submitted.
- (c) No permit shall be used to operate a vehicle that has not been fully licensed by the State pursuant to F.S. Ch. 401.
- (d) The vehicle sticker or identification required by the State of Florida following licensure under F.S. Ch. 401 must be displayed on the vehicle at all times during operation.
- (e) Each certificate holder must identify to the Council each vehicle to be operated under a permit and must provide to the Council copies of any forms required by the State of Florida indicating the vehicle's licensure under F.S. Ch. 401.
- (f) A certificate holder may permanently transfer a permit between its owned vehicles following notice to the Council identifying the new vehicle to be operated under that permit and providing to the Council copies of any forms required by the State of Florida for that purpose.
  - (1) When it is necessary for a permitted vehicle to be out of service for routine maintenance or repairs, a substitute vehicle meeting the same transport capabilities and equipment specifications as the out-of-service vehicle may be used for a period of time not to exceed 30 days. If the substitute vehicle needs to be in service for longer than 30 days, the certificate holder must seek written approval from the Council. An unpermitted vehicle may not be placed into service unless it is replacing a vehicle that has been temporarily taken out of service for maintenance or repair.
  - (2) When such a temporary vehicle substitution is made, the following information shall be maintained by the certificate holder and shall be accessible by the Board or Council upon request:
    - a. Identification of permitted vehicle taken out of service.
    - b. Identification of substitute vehicle.

- c. The date on which the substitute vehicle was placed into service and the date on which it was removed from service and the date on which the permitted vehicle was returned to service.
- (g) Upon sale or disposal of a permitted vehicle, the permit will be forfeited unless transferred to another vehicle prior to the next certificate renewal date. If a permit is forfeited, the certificate will be amended to reflect the reduced number of authorized permits.

(Ord. No. 06-9, § 7, 4-7-2006)

Sec. 22-93. - Operation and rates.

- (a) Certificate holders shall comply with all requirements of State and federal law.
- (b) Certificate holders shall comply with rules and regulations for operation as adopted by the Board by resolution.
- (c) Ambulance service providers and air ambulance services shall file with the application for certificate and renewals a schedule of proposed rates for transportation or treatment of patients. Certificate holders must provide notice of subsequent rate changes to the Council.

(Ord. No. 06-9, § 8, 4-7-2006)

Sec. 22-94. - Certificate revocation, modification, suspension or affirmation.

- (a) Every certificate or permit issued pursuant to this article is subject to revocation, modification or suspension if it is found that:
  - (1) The certificate holder has failed or neglected to render services in conformance with the certificate, this article, the rules and regulations, or State or federal law;
  - (2) The application or evidence by which the certificate was granted or renewed contained false representations or omitted material facts including intentionally failing to indicate material changes upon renewal of the certificate;
  - (3) The certificate holder or its agent has demanded money or other compensation in excess of that established in its schedule of fees or rates filed with the Board;
  - (4) The certificate holder or any of its principals has been convicted, or pled guilty or nolo contendere to a felony, whether or not adjudication was withheld. In determining whether to revoke, suspend or modify a certificate for commission of a felony, the Board shall consider the following factors:
    - a. The nature and seriousness of the offense;

- b. The circumstances under which the felony occurred;
  - c. The amount of time which has passed since the commission of the offense;
  - d. The age of the person when the offense was committed;
  - e. Whether the offense was an isolated or repeated violation;
  - f. Social conditions which may have contributed to this offense;
  - g. Any evidence of rehabilitation;
  - h. The relationship of the offender with the certificate holder;
  - i. Any extenuating or mitigating circumstances which the certificate holder may offer;
- (5) The certificate holder has operated outside of the scope of its certificate or permits or any limitations or restrictions upon its certificate or permits; or
- (6) The certificate holder has failed to comply with or has violated any of the provisions of State or federal law, this article, or the rules and regulations.
- (b) Complaints about the service of certificate holders or evidence of infractions shall be received and investigated by the Council or its designee. Such investigator may, upon sufficient finding, issue a deficiency correction notice pursuant to provisions of the rules and regulations. The investigator shall, in any case, make recommendations as to the facts of the infraction or complaint to the Council and shall forward a copy of the recommendations and findings of facts to the certificate holder by certified mail.
- (c) In determining a certificate holder's compliance with this article, the Board, the Council or their designated representatives may perform reasonable inspections of any item pertinent to the requirements of this article. The Board, the Council, or their designated representatives may reasonably require that the applicant or any current certificate holder submit information as may be necessary to determine compliance with this article.
- (d) If the Council finds that revocation, suspension or modification of a certificate may be warranted, then notice shall be sent to the certificate holder by certified mail of such finding and of the date of public hearing on the matter, not less than ten days prior to the hearing date.
- (1) A public hearing shall be held by the Council or hearing officer for the purpose of recommending revocation, suspension, modification or affirmation of the certificate. The Council or the hearing officer must consider any testimony, evidence or recommendations by the Council or any of its members or any investigator designated by the Council to investigate the complaint. The Council or the hearing officer shall then

forward a recommendation to the Board, with a copy to the applicant, and, if applicable, the Council, regarding the certificate in question.

- a. Following notice to the certificate holder, the Board shall hold a public hearing to revoke, modify, suspend or affirm the certificate in question. The Board shall consider only facts presented at the Council or hearing officer public hearing. If the Board determines that new facts have been offered which were not available or were not produced at the time of the Council or hearing officer public hearing, the Board may remand the report and recommendations to the Council or hearing officer and shall set the date, time, and place of another Board public hearing, with proper notice to the certificate holder of such supplementary public hearing. After remand, the Council or hearing officer may conduct further public hearings, and may take any other action necessary to determine the merits of matter. Thereafter, the Council or hearing officer shall file a supplemental report with the Board for its final action affirming, reversing, or modifying the recommendations. The Board may conduct such further hearings and make such additional investigations as it deems necessary before taking final action.
- b. The Board may impose reasonable temporary or permanent conditions on the certificate holder.

(Ord. No. 06-9, § 9, 4-7-2006)

Sec. 22-95. - Process for appeal.

Any person who is aggrieved or substantially affected by a final decision of the Board may seek judicial review through appeal to a court of competent jurisdiction pursuant to Florida law.

(Ord. No. 06-9, § 10, 4-7-2006)

Sec. 22-96. - Insurance.

Every certificate holder shall carry bodily injury and property damage insurance or its equivalent, with solvent and responsible insurers authorized to transact business in the State of Florida, or be qualified by the State as a self-insurer, to secure payment for any loss or damage resulting from any occurrence arising out of or caused by the operation or use of any of the certificate holder's permitted motor vehicles. Each permitted vehicle shall be insured for the sum of at least \$100,000.00 for injuries to or death of any one person arising out of any one accident, in the sum of at least \$300,000.00 for injuries to or death of more than one person in any one accident and for the sum of at least \$50,000.00 for damage to property arising from any one accident. Each certificate holder shall maintain medical malpractice insurance in an amount not less than \$100,000.00 for injury to one person, and in the amount of at least \$300,000.00 for injury to more than one person in any one incident. Every insurance policy or contract for such insurance shall provide for the payment and satisfaction of any financial judgment entered



against the certificate holder or any person driving a vehicle on behalf of the certificate holder. Such insurance shall be obtained and certificates or certified copies of such policies shall be filed with the Council. All such insurance policies shall provide for a 30-day cancellation notice to the Council and the Council and the Board shall be named as additional insureds on each policy.

(Ord. No. 06-9, § 11, 4-7-2006)

Sec. 22-97. - Variances and waivers.

- (a) Any person or entity substantially affected and subject to a provision of this article or the rules and regulations may file a petition with the Council, on a form designated by the Board, requesting a variance or waiver from any provision of this article or the rules and regulations. Each petition shall state:
  - (1) The specific part of this article or rule from which a variance or waiver is requested;
  - (2) The type of action requested;
  - (3) The specific facts that would justify a waiver or variance for the petitioner;
  - (4) The reason why the variance or the waiver requested would serve the purposes of the article or the rule.
- (b) Following receipt of a petition for a variance or waiver, the Council or its designee shall hold a public hearing for the purpose of considering the petition. The petitioner and all current certificate holders shall be notified by certified mail, not less than ten days prior to the public hearing, of the date, time, and place of the public hearing.
- (c) Following the public hearing, the Council shall forward a written recommendation to the Board with copies to the petitioner and all current certificate holders. The Board shall hold a public hearing for the purpose of considering the Council's recommendation. The Petitioner and all current certificate holders shall be notified by certified mail, not less than ten days prior to the public hearing, of the date, time, and place of the Board public hearing.
  - (1) The Board shall take final action affirming, reversing, or modifying the Council's recommendations. A petition for variance may only be granted upon an affirmative vote of five members of the Board. If the Board determines that new facts have been offered which were not available at the time of the hearing before the Council, the Board may remand the report and recommendations to the Council and set the date, time, and place of another public hearing, with proper notice to the parties of such supplementary public hearing. Thereafter, the Council shall file a supplemental report with the Board for its final action affirming, reversing, or modifying the recommendations. The Board may conduct such further hearings and make such additional investigations as it deems necessary before taking final action.

- (d) Variances and waivers shall be granted when the person subject to this article or rule demonstrates that the purpose of the article or rule will be or has been achieved by other means and when application of a provision of the article or the rule would create a substantial hardship or would violate principles of fairness. For purposes of this subsection, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this subsection, "principles of fairness" are violated when the literal application of a provision of this article or a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the provision.
- (e) The Board may limit the duration of any grant of a variance or waiver or otherwise impose conditions on the grant to the extent necessary for the purposes of the underlying article or rule to be achieved.

(Ord. No. 06-9, § 12, 4-7-2006)

Sec. 22-98. - Penalties.

Any person who violates a provision of this article shall be subject to punishment as provided by F.S. § 125.69. Violators shall be prosecuted by the Office of the State Attorney in the same manner as misdemeanors are prosecuted and, upon conviction, shall be punished by a fine not to exceed \$500.00 or by imprisonment not to exceed 60 days or both such fine and imprisonment.

(Ord. No. 06-9, § 13, 4-7-2006)

Sec. 22-99. - Severability.

If any section, phrase, sentence or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Ord. No. 06-9, § 14, 4-7-2006)

Sec. 22-100. - Construction of article.

The provisions of this article shall be liberally construed in order to effectively carry out the purposes of this article in the interest of the public health, safety and welfare of the citizens and residents of Hillsborough County.

(Ord. No. 06-9, § 15, 4-7-2006)

**SECTION 3: INCLUSION IN THE HILLSBOROUGH COUNTY CODE**

The provisions of this ordinance amendment shall be included and incorporated in the Hillsborough County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Hillsborough County Code, once established.

**SECTION 4: SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or provision of this ordinance amendment is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this ordinance invalid or unconstitutional.

**SECTION 5: FILING OF ORDINANCE AND EFFECTIVE DATE**

In accordance with the provisions of §125.66, Florida Statutes, governing ordinances, a certified copy of this ordinance amendment shall be filed with the Florida Department of State by the Clerk of the Board of County Commissioners. This ordinance amendment shall take effect upon filing with the Florida Department of State.

STATE OF FLORIDA                   )  
COUNTY OF HILLSBOROUGH )

I, PAT FRANK, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted by the Board at its regular meeting of October 18, 2017, by a vote of 6 voting yes and 0 voting no, as the same appears in record in Minute Book 497 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 18th day of October, 2017.

PAT FRANK  
CLERK OF THE CIRCUIT COURT

BY: M. J. D. D.  
Deputy Clerk

Approved By County Attorney  
As To Form and Legal Sufficiency:

By: [Signature]  
Sr. Assistant County Attorney





## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

October 19, 2017

Honorable Pat Frank  
Clerk of the Circuit Court  
Hillsborough County  
419 Pierce Street, Room 140  
Tampa, Florida 33601

Attention: Midge Dixon, Deputy Clerk

Dear Mrs. Frank:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hillsborough County Ordinance No. 17-26, which was filed in this office on October 19, 2017.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb