



May 13, 2026

City of Fayette, Missouri
Attention: Mayor Greg Stidham
117 South Main Street
Fayette, Missouri 65248

**Regarding: Howard County Ambulance District — Proposed Ambulance Base;
Notice of District's Position Regarding City Zoning Approval**

Dear Mayor Stidham:

I represent the Howard County Ambulance District regarding its proposed construction and operation of a new ambulance base within the City of Fayette.

This letter is sent to advise the City of the District's legal position following the City's denial of the District's conditional use permit request. For the reasons summarized below, the District does not concede that the City had jurisdiction to require or deny a conditional use permit for this project. The District's position is that the proposed ambulance base is a public facility used for the District's state-authorized governmental ambulance service functions, and that the City's zoning regulations may not be applied to prohibit, condition, or delay that facility.

Accordingly, the District intends to proceed with construction and operation of the ambulance base without further City land-use approval. In doing so, the District reserves all rights and does not waive any position regarding its exemption from City zoning control. The District remains willing, however, to coordinate with City officials on appropriate non-zoning construction, utility, traffic, access, stormwater, and life-safety matters as a matter of comity and cooperation.

The District Is a Political Subdivision Exercising Chapter 190 Governmental Powers
The District is a Missouri ambulance district organized under Chapter 190 of the Revised Statutes of Missouri. Missouri law provides that, when organized, an ambulance district is a "body corporate and a political subdivision of the state." See § 190.010, RSMo.

Chapter 190 further provides that an ambulance district has "governmental powers" and all powers incidental, necessary, convenient, or desirable to carry out its express statutory powers. Those powers include, among others, the authority to:

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- Establish and maintain ambulance service within the District's corporate limits, and acquire for, develop, expand, extend, and improve that service;
- Acquire land and property interests used or useful for the location, establishment, maintenance, development, expansion, extension, or improvement of ambulance service;
- Operate, maintain, and manage ambulance service and provide rules and regulations for the operation, management, or use of that service; and
- Employ or contract with persons and professionals necessary or desirable for the District's public purposes. See § 190.060, RSMo.

The proposed ambulance base is directly within those statutory powers. It will be used to house ambulances, equipment, supplies, and personnel necessary for the District to provide emergency medical services to the public. It is further ideally situated to provide the most efficient emergency medical services to the citizens of the Howard County area. It is therefore a facility used for the location, establishment, maintenance, development, expansion, extension, and improvement of ambulance service under Chapter 190.

The Proposed Ambulance Base Is a Governmental Public Use, Not a Proprietary Private Use

The construction and operation of an ambulance base by a Chapter 190 ambulance district is a governmental function. Section 190.060 expressly characterizes the District's relevant powers as governmental powers. The facility is not a private commercial enterprise or a discretionary private development; it is public emergency-services infrastructure for a political subdivision of the State of Missouri.

The fact that an ambulance district may charge fees for ambulance services does not alter the governmental nature of the function. Chapter 190 itself authorizes fee collection as part of the District's governmental powers. Missouri courts have likewise recognized in other public-service contexts that the receipt of fees, revenue, or payments for services does not by itself convert a public health or public service function into a proprietary private enterprise.

Fayette's Local Zoning Provisions Do Not Give the City Authority to Veto the District's Facility

I understand that the property is located in the City's RS-1 Single-Family Residential District and that Section 405.170 of the City's zoning regulations lists "public buildings erected by any government agency, except jails" as a conditional use in that district. I also understand that, under Section 405.930, the Board of Adjustment makes recommendations

regarding conditional use permits and the Board of Aldermen makes the final decision after public hearing.

Those provisions may apply to ordinary private applicants or to public projects that are properly subject to City land-use authority. They do not, however, enlarge the City's statutory zoning authority or create jurisdiction over a separate political subdivision carrying out state-authorized governmental functions where Missouri law does not grant the City that power.

The District's participation in the conditional use process should not be construed as a waiver of its legal position. Nor should it be construed as a concession that City approval was required. To the extent the District submitted materials or participated in hearings, it did so in an effort to cooperate with the City and address local concerns, not because the District agreed that the City possessed authority to prohibit or condition the project.

Missouri Law Supports the District's Exemption from Local Zoning Control

Missouri courts have repeatedly held that local zoning authority may not be used to defeat or materially restrict another governmental entity's state-authorized public use absent clear authority to do so.

In *State ex rel. St. Louis Union Trust Co. v. Ferriss*, the Missouri Supreme Court held that a city zoning ordinance could not prevent a school district from selecting and acquiring a site for a public school where the school district was acting under state authority.

In *State ex rel. Askew v. Kopp*, the Missouri Supreme Court held that local zoning ordinances were not applicable to a city's state-authorized public use for a sewage disposal facility and that proceedings before the local planning and zoning bodies were void for lack of jurisdiction.

In *State ex rel. City of Gower v. Gee*, the Missouri Court of Appeals reached the same conclusion where a fourth-class city sought to construct a sewage facility notwithstanding county zoning restrictions.

In *City of Washington v. Warren County*, the Missouri Supreme Court reaffirmed that, in resolving conflicts between zoning authority and another governmental entity's public-use authority, Missouri courts focus on the source and scope of the competing powers. Where a public entity's state-authorized public-use power is superior to zoning authority derived only from general statute, zoning regulations do not control the public use.

In *City of Vinita Park v. Girls Sheltercare, Inc.*, the Missouri Court of Appeals held that a fourth-class city could not apply its zoning ordinance to prohibit a shelter-care facility operated for the juvenile court under statutory authority. The court explained that a fourth-

class city's zoning power under Chapter 89 is limited and does not extend to restricting public property or public uses for public purposes absent clear legislative authorization.

These authorities support the District's position that Fayette's zoning regulations, including its conditional use permit process, may not be applied to prohibit, condition, or delay the District's Chapter 190 ambulance base.

The Conditional Use Denial Is Not Binding on the District

Because the City lacked authority to require the District to obtain conditional use approval for the proposed ambulance base, the Board of Aldermen's denial of the conditional use permit is not legally binding on the District and does not prevent the District from proceeding.

The District's position is not that the City merely reached the wrong discretionary zoning decision. Rather, the District's position is that the City's conditional use process does not apply to this Chapter 190 facility in the first instance. For that reason, the denial should be treated as legally ineffective as applied to the District's project.

This letter is not intended as a request for reconsideration, an appeal, or a petition for relief under the City's zoning regulations. The District reserves the right to seek declaratory, injunctive, or other relief if the City attempts to enforce the conditional use denial, issue stop-work orders, refuse to cooperate on necessary non-zoning matters, issue citations, or otherwise interfere with the District's state-authorized ambulance service facility.

Coordination on Non-Zoning Matters

The District values its relationship with the City of Fayette and does not seek unnecessary conflict. The District recognizes that successful public safety operations require cooperation among local government entities.

Accordingly, although the District does not agree that City land-use approval is required, the District remains willing to coordinate with appropriate City officials regarding non-zoning matters, including:

- Construction logistics, utility connections, and stormwater and drainage coordination;
- Ingress and egress, traffic circulation, and emergency access;
- Fire and life-safety considerations; and
- Any generally applicable requirements that are not used as a zoning veto or condition precedent to the District's right to construct and operate the facility.

This willingness to coordinate is offered as a matter of comity and good-faith intergovernmental cooperation. It should not be treated as a waiver of the District's position that the City may not require zoning or conditional use approval for this project.

Notice of Intent to Proceed

Please accept this letter as formal notice that the Howard County Ambulance District intends to proceed with construction and operation of the ambulance base without further City land-use approval.

If the City contends that any specific non-zoning requirement applies to the project, please identify that requirement in writing, together with the statutory or ordinance authority on which the City relies, within ten (10) days of receipt of this letter. The District will review any such information in good faith while reserving all rights.

Nothing in this letter should be construed as an admission that any City zoning, conditional use, site-plan, or land-use approval is required. The District expressly reserves all rights, claims, defenses, and remedies.

I appreciate the City's attention to this matter and remain hopeful that the District and the City can continue to work cooperatively in the public interest. Please direct any communications regarding this matter directly to me going forward.

Sincerely,



Frank Robert Flaspohler, Legal Counsel
Howard County Ambulance District