

FORSYTH COUNTY
BOARD OF COMMISSIONERS

**BRIEFING
DRAFT**

9

MEETING DATE: MARCH 1, 2018 AGENDA ITEM NUMBER: _____

**SUBJECT: ORDINANCE REVISING CHAPTER 5 OF THE FORSYTH COUNTY CODE
ENTITLED, "AMBULANCES"
(FORSYTH COUNTY ATTORNEY'S OFFICE)**

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:

ATTACHMENTS: Yes No

SIGNATURE: _____ DATE: _____
COUNTY MANAGER

Chapter 5 - AMBULANCES^[1]

Footnotes:

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Editor's note— Ord. No. 2-2008, adopted Nov. 24, 2008, amended Ch. 5 in its entirety to read as herein set out. Former Ch. 5, §§ 5-1—5-4, pertained to similar subject matter and derived from a Resolution of Mar. 4, 1968; Ord. No. 2-92, adopted Apr. 13, 1992; and Ord. No. 3-95, adopted July 10, 1995.

Cross reference— Motor vehicles and traffic, Ch. 14.

State Law reference— Ambulance service regulations, G.S. § 131E-155 et seq.; county ambulance services, G.S. § 153A-250.

Sec. 5-1. - Purpose.

In the public interest and for the promotion of public health, safety, welfare and convenience, and pursuant to statutory authority contained in G.S. 153A-250, G.S. Ch. 131E, Art. 7, Forsyth County Code, Chapter 5, and other applicable laws, the following chapter sets forth the conditions, limitations, restrictions, and requirements under which a person, as defined herein, may provide ambulance services or operate ambulance(s) in Forsyth County, North Carolina.

(Ord. No. 2-2008, 11-24-08)

Sec. 5-2. - Definitions.

For the purposes of this chapter, the following words, phrases, terms, abbreviations, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the past tense, words used in the past tense include present tense, words in the plural number include the singular number, words in the singular number include the plural number, and words in the masculine, feminine or neuter gender include each of the other genders.

Ambulance shall mean any privately or publicly owned motor vehicle, aircraft, or vessel that is specifically designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation of patients on the streets or highways, waterways, or airways of this State, in accordance with the provisions of G.S. 131E-155.

Ambulance provider shall mean an individual, firm, partnership, corporation~~s~~, association, company, group of individuals acting together for a common purpose, or organization of any kind who engage in or profess to provide the service of transporting patients in an ambulance.

Board shall mean the Forsyth County Board of County Commissioners.

Communications center shall mean a physical location, owned and operated by a private provider, that is staffed twenty-four (24) hours per day, seven (7) days per week for the purposes of receiving telephone requests for ambulance service directly from the general public and from Forsyth County 9-1-1 Communications, and for dispatching, via radio, the appropriate private provider ambulance(s).

Commission shall mean the North Carolina Medical Care Commission.

County shall mean Forsyth County, North Carolina.

Credentialed personnel shall mean an individual who meets the requirements set forth in the rules of the North Carolina Medical Care Commission setting forth the qualifications required for credentialing by the N.C. Department of Health and Human Services that allows them to practice ~~at~~ as any of the following: Emergency Medical Responder (EMR), Emergency Medical Technician (EMT), EMT-Expanded

~~Scope, Advanced EMT Intermediate (AEMT), Emergency Medical Dispatcher (EMD), and/or EMT Paramedic (EMT Paramedic)~~, as defined in G.S. 131E-155, and any rules promulgated pursuant thereto.

Department shall mean the North Carolina Department of Health and Human Services (NC DHHS).

Emergency transportation service shall mean the operation of an ambulance, with the equipment and personnel to provide medical care transportation of a patient who is in need of immediate medical treatment in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.

FCC shall mean the Federal Communications Commission.

Non-emergency transportation services shall mean the operation of an ambulance for any purpose other than emergency transportation service.

Owner shall mean any person or entity who owns an ambulance.

Patient shall mean an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated, as defined in G.S 131E-155.

Person shall mean any individual, firm, partnership, corporation, association, company, group of individuals acting together for a common purpose, or organization of any kind, including any governmental agency of the United States.

Private franchise ambulance provider shall mean any ambulance provider that has been granted a franchise to operate an ambulance in Forsyth County.

Shall always describes actions that are mandatory and not merely directive.

State shall mean the State of North Carolina.

Traffic shall mean the response mode (i.e., Emergent (~~40-48 lights and siren~~), Routine-No-Delay (~~RND~~), or Routine (~~no lights and siren~~) utilized by ambulances while en route to a call and/or while transporting a patient to a medical facility.

(Ord. No. 2-2008, 11-24-08)

Sec. 5-3. - Standards.

- (a) Credentialed personnel shall be subject to and shall comply with the standards including, but not limited to, those developed by the Commission and those listed in the Forsyth County Emergency ~~Medical~~ Services ~~Model~~ EMS System Plan, which standards are incorporated herein by reference.
- (b) Vehicles and equipment shall be subject to and shall comply with the standards including, but not limited to, those developed by the Commission and those listed in the Forsyth County Emergency ~~Medical~~ Services ~~Model~~ EMS System Plan, which standards are incorporated herein by reference.

(Ord. No. 2-2008, 11-24-08)

Sec. 5-4. - Communications and dispatch requirements.

- (a) Each private provider ambulance shall be equipped with 800MHz and VHF two-way communications compatible with those used by Forsyth County Emergency ~~Medical~~ Services. Forsyth County 9-1-1 Communications shall assign frequencies and record movements of the private provider's ambulances.
- (b) Each private provider-~~owned~~ ambulance shall be required to render assistance to Forsyth County Emergency ~~Medical~~ Services as assigned by Forsyth County 9-1-1 Communications in the case of a major catastrophe or emergency or when Forsyth County Emergency ~~Medical~~ Services units are unavailable to respond to emergency or non-emergency calls.

- (c) Calls assigned to private franchise ambulance providers by Forsyth County 9-1-1 Communications under the provisions of subsection 5-4(b) herein shall take priority over scheduled non-emergency calls.
- (d) When Forsyth County Emergency ~~Medical~~ Services units are dispatched to an emergency call and a private franchise ambulance provider's ambulance is available, and closer to the scene, the private provider ambulance shall:
 - (1) Contact Forsyth County 9-1-1 Communications via 800MHz radio and advise of their current location and request authorization to respond; and
 - (2) If Forsyth County 9-1-1 Communications authorizes a response by the private franchise ambulance provider ambulance, the said ambulance shall respond immediately utilizing the response traffic directed; and
 - (3) Upon arrival, the crew of the private franchise ambulance provider ambulance shall:
 - a. Establish patient contact as soon as the scene is deemed safe to do so;
 - b. Notify Forsyth County 9-1-1 Communications of the patient's condition and recommend appropriate response traffic for the responding Forsyth County Emergency ~~Medical~~ Services unit;
 - c. Provide appropriate patient care until arrival of the Forsyth County Emergency ~~Medical~~ Services unit; and
 - d. Provide assistance to the Forsyth County Emergency ~~Medical~~ Services crew upon their arrival, and until such time as they are released by the Forsyth County Emergency ~~Medical~~ Services crew.
- (e) Each private franchise ambulance provider shall establish and maintain, at its own expense, a communications center. The communications center shall:
 - (1) Be accessible to the general public via a published, ~~seven~~ ten-digit telephone number;
 - (2) Be accessible via a secondary ~~seven~~ ten-digit telephone number that is only utilized for the purposes of communication with Forsyth County 9-1-1 Communications and Forsyth County Emergency ~~Medical~~ Services;
 - (3) Be staffed by personnel that have successfully completed appropriate telecommunications training;
 - (4) Be equipped with two-way radio communications capable of communicating with all ambulances ~~owned and/or~~ operated by the private provider via frequencies that are assigned by Forsyth County 9-1-1 Communications; and
 - (5) Maintain an electronic record keeping system, capable of generating reports electronically and in print, that tracks data points as specified by Forsyth County Emergency ~~Medical~~ Services.
- (f) Any emergency call for ambulance service received at any base, office, communications center, or other facility operated by a private franchise ambulance provider shall be immediately referred to Forsyth County 9-1-1 Communications.

(Ord. No. 2-2008, 11-24-08)

Sec. 5-5. - Minimum limits of liability insurance for private franchise ambulance providers.

- (a) No ambulance franchise shall be granted under this chapter, nor shall such franchise be valid after granted, unless the private provider has at all times in force and effect liability insurance coverage issued by an insurance company licensed to transact business in this State which meets the following criteria:
- (b) Liability insurance requirements:

- (1) The private franchise ambulance provider shall procure and maintain liability insurance against claims for bodily injuries to persons or damages to property for the duration of the franchise which may arise from or in connection with the performance of services hereunder by the private provider, his agents, representatives, or subcontractors.
 - a. *Commercial general liability insurance.* The private franchise ambulance provider shall maintain occurrence version commercial general liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000.00) each occurrence. If such insurance contains a general aggregate limit, it shall be no less than two (2) times the occurrence limit. Such insurance shall:
 1. Include the County, its officials, officers, and employees as additional insureds with respect to performance of the services. The coverage shall contain no special limitation on the scope of protection afforded to the above listed additional insured. Additional insured should read: Forsyth County ~~Finance Department, its officials, officers, and employees~~, 201 North Chestnut Street, Winston-Salem, N.C., 27101.
 2. Be primary with respect to any insurance or self-insured retention programs covering the County, its officials, officers and employees.
 - b. *Business automobile liability insurance.* The private franchise ambulance provider shall maintain business automobile liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000.00) each accident. Such insurance shall include coverage for owned, hired, and non-owned automobiles.
 - c. *Workers' compensation and employers' liability insurance.* The private franchise ambulance provider shall maintain workers' compensation insurance with state statutory limits, and employers' liability insurance with limits of not less than one million dollars (\$1,000,000.00) each accident.
 - d. *Medical malpractice liability insurance.* The private franchise ambulance provider shall maintain occurrence version medical malpractice liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000.00) each occurrence. If such insurance contains a general aggregate limit, it shall be no less than two (2) times the occurrence limit.
 - e. *Excess liability insurance.* The private franchise ambulance provider shall maintain an excess liability insurance policy in the amount of five million dollars (\$5,000,000.00). This excess liability insurance policy shall be excess over the general liability, automobile liability, workers compensation, and medical malpractice liability insurance coverage.
- (2) The private franchise ambulance provider shall:
 - a. Prior to commencement of services, furnish the County with properly executed certificates of insurance which shall clearly evidence all insurance required in this section. ~~and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on thirty (30) days' prior written notice to the County.~~
 - b. Provide certified copies of endorsements and policies, if requested by the County, in lieu of or in addition to certificates of insurance.
 - c. Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of the services.
 - d. Maintain such insurance from the time services commence until services are completed.
 - e. Place such insurance with insurers authorized to do business in North Carolina and having A.M. Best Company ratings of not less than A:VII. Any alternatives to this requirement shall require written approval of the County's risk manager.
- (c) The private franchise ambulance provider understands and acknowledges that these liability insurance coverage requirements are minimums and that they do not restrict or limit the hold harmless provisions of this agreement.

- (d) Each liability insurance policy must list the County as a party to be notified by the insurance company in the event that the private provider's insurance is revoked, withdrawn, cancelled, or allowed to lapse, or in the event that there is any change whatsoever in the above-described coverage amounts.
- (e) ~~Each liability insurance policy~~ The private franchise ambulance providers must authorize the insurance company to release any information regarding said insurance policy and the status of said policy to the County, and specifically Forsyth County Emergency ~~Medical~~ Services, at any time an inquiry is made.
- (f) Each private franchise ambulance provider shall operate as an independent contractor, and the County shall not be responsible for any of the private franchise ambulance provider's acts or omissions while providing services under this chapter. Each private franchise ambulance provider shall hold the County harmless from and against any and all claims, expenses (including attorney fees), costs or liability for negligent or intentional acts or omissions, including willful or criminal conduct, of the private franchise ambulance provider, its employees, agents or other representatives while providing services under this chapter.
- (g) Each private franchise ambulance provider shall enter into an operational agreement with Forsyth County Emergency Services. This agreement shall outline specific operational guidelines and policies between agencies. This agreement shall be reviewed annually.

(Ord. No. 2-2008, 11-24-08)

Sec. 5-6. - Rates and charges.

- (a) Each private franchise ambulance provider in Forsyth County shall set its rates and fees in accordance with those rates and fees set for Forsyth County Emergency ~~Medical~~ Services by the Board.
 - (1) A private franchise ambulance provider shall charge the approved Basic Life Support Non-Emergency (BLS-NEasic-Life-Support) non-emergency or the Basic Life Support – Emergency (BLS-E) rate appropriately for all calls for services that are scheduled and/or received directly by the private provider as defined by the Centers for Medicare/Medicaid Services (CMS) guidelines.
 - (2) ~~A private provider shall charge the approved BLS (Basic Life Support) emergency rate only for those calls dispatched via Forsyth County 9-1-1 Communications to respond to assist or back up Forsyth County Emergency Medical Services. Forsyth County nor its entities shall not be responsible for ensuring appropriate billing practices by the private franchise ambulance providers.~~
- (b) Rates and charges by private franchise ambulance providers which provide critical care ambulance services to patients, which originate outside the County or within the County in response to a request by Forsyth County Emergency ~~Medical~~ Services, are not regulated under this chapter.
- (c) Private franchise ambulance providers shall not charge administrative fees for the services provided hereunder, unless approved by the Board.

(Ord. No. 2-2008, 11-24-08)

Sec. 5-7. - Franchise required.

- (a) It shall be unlawful for any ambulance provider to furnish, operate, conduct, maintain, advertise or otherwise ~~be engaged~~ in the operation of ambulance services in Forsyth County or to operate an ambulance in Forsyth County unless such person shall have first obtained and shall currently hold a valid franchise granted pursuant to this chapter.

- (b) No ambulance franchise shall be required for:
- (1) Privately owned vehicles not used in the business of transporting patients;
 - (2) A vehicle rendering services as an ambulance in case of a major catastrophe or emergency, when the permitted ambulances based in the locality of the catastrophe or emergency are insufficient to render the services required;
 - (3) Any ambulance based outside this County, except that an ambulance which receives a patient within this County for transportation to a location within this County shall be required to obtain a valid ambulance franchise and to comply with the provisions of this chapter;
 - (4) Ambulances owned and operated by an agency of the United States government;
 - (5) Vehicles owned and operated by rescue squads, chartered by the State as nonprofit corporations or associations or by rescue squads which are not regularly used to transport sick, injured, wounded, or otherwise incapacitated or helpless persons except as a part of rescue operations.

(Ord. No. 2-2008, 11-24-08)

Sec. 5-8. - Application.

- (a) Application for a franchise to operate an ambulance in the County shall be made by the ambulance provider upon such forms as may be prepared or prescribed by the County and shall contain, but not be limited to, the following information:
- (1) The name and address of the ambulance provider and the owner(s) of the ambulance(s);
 - (2) The corporate, partnership, trade or other assumed name, if any, under which the applicant transacts business, along with a certified copy of an assumed name certificate stating such names, or articles of incorporation stating such names;
 - (3) A resume or CV of all principle owners, executives and senior managers of the entity making application;
 - (4) A complete description of the type and level of service to be provided, including detailed plans stating the method of implementation and operation of service;
 - (5) An audited financial statement of the applicant as same pertains to proposed operations in the County upon such forms as may be prepared or prescribed by the County;
 - (6) A list of employees, job status, copies of valid certification cards (credentials) issued by the Department, and North Carolina motor vehicle operator license numbers;
 - (7) A list of ambulances, including the model, year and license numbers for each, and copies of current vehicle inspection sheets issued by the Department;
 - (8) Proof of required insurance;
 - (9) A copy of a valid provider license issued by the Department;
 - (10) The mailing address and physical location of all places where business is conducted; and,
 - (11) A consent form authorizing the director of Forsyth County Emergency Medical Services, or his designee, to inspect the applicant's stations, vehicles, equipment, training records, attendants' State certification cards, and any other credentials and records deemed necessary at any time, without notice, during the term of the franchise.
- (b) Application for a franchise to operate an ambulance in the County shall be accompanied by an application examination fee of one thousand two hundred seventy-five dollars (\$1,275.00). This fee is non-refundable, and in no way obligates the County to grant a franchise to the applicant.

- (c) The County reserves the right to refuse to accept applications for new franchises at its discretion. Applications and application examination fees received that are not to be considered will be returned to the applicant.

(Ord. No. 2-2008, 11-24-08)

Sec. 5-9. - Grant, renewal and transfer of franchise.

- (a) The County shall accept applications for a new franchise from interested ambulance providers during a published application period each fiscal year, that is two (2) calendar months in duration. Information concerning the application period shall be published on the fcems.com website.
- (b) Upon receipt of an application for a franchise, the County shall schedule a time and a place for meeting with the applicant prior to an examination. Within thirty (30) days after such meeting, the County shall cause such examination as it may deem necessary to be made of the applicant and his proposed operations.
- (c) A franchise may be granted if the County finds that:
 - (1) The applicant meets State standards and the standards outlined in this chapter; and,
 - (2) A need exists for the proposed services in order to assure the provision of an adequate and continuing level of ambulance services to residents of the County and to preserve, protect, and promote the public health, safety, and welfare.
- (d) Any franchise hereby granted to provide ambulance services in the County is not and shall not be deemed to be an exclusive right or permission. The County expressly reserves the right to grant similar non-exclusive franchises to other ambulance providers at any time or for any period of time. No additional franchise granted by the County shall in any way affect the obligations of the ambulance franchise grantee hereunder.
- (e) Each ambulance franchise shall be valid for five (5) years from the date of its issuance.
- (f) Each ambulance franchise may be renewed by submission of the renewal application to the director of Forsyth County Emergency Services at least ninety (90) days prior to the expiration date of the ambulance franchise. Failure to submit a renewal application in a timely manner may result in the ambulance franchise not being renewed or a delay in the renewal process that prohibits the private provider from operating. After the approval of said renewal application by the Forsyth County Emergency Services Director and grant of ambulance franchise by the Board, and upon payment of a renewal examination fee of six hundred thirty-seven dollars and fifty cents (\$637.50), franchise shall be extended for up to an additional five (5) years as determined by the Forsyth County Board of Commissioners.
- (g) The control or ownership of an ambulance franchise shall not be transferable without the advance written approval of the Board. Upon any change in ownership of a private provider, without prior written approval by the Board, the franchise is considered null and void.

(Ord. No. 2-2008, 11-24-08; Ord. No. 2-2015, 12-21-15)

Sec. 5-10. - Suspension, revocation, termination.

- (a) Either party, at its option, may terminate an ambulance franchise granted under this chapter without cause upon one hundred twenty (120) days' prior written notice to the other party. After a notice of termination is given, the ambulance provider may reapply for a franchise if continued service is desired.
- (b) The acceptance of an ambulance franchise by an ambulance provider constitutes an agreement to comply with required standards and provisions of this chapter at all times. Each private franchise

ambulance provider shall comply at all times with the requirements of this chapter, the franchise granted hereby, and all applicable federal, state and local laws relating to health, sanitation, safety, equipment, and ambulance design and all other applicable laws and ordinances, including but not limited to G.S. Ch. 131E, Art. 7, and Ch. 143, Art. 56, and the Forsyth County Emergency Medical Services Model System Plan adopted by the County. Failure to comply with any of the foregoing requirements may result in the immediate termination, revocation or suspension of the ambulance franchise by the County.

- (c) Upon suspension, revocation, or termination of an ambulance franchise granted hereby, such ambulance provider shall immediately cease all operations. Upon suspension, revocation, or termination of credentialed persons employed by a private provider or such credentialed person's driver's license or other qualifications required for credentialing, such persons shall immediately cease to drive an ambulance or to provide credentialed services for the private provider.

(Ord. No. 2-2008, 11-24-08)

Sec. 5-11. - Inspection.

The director of Forsyth County Emergency Medical Services ~~or their~~ his designee shall periodically inspect the stations, records and ambulances of the private providers under this chapter in order to determine any violations of its provisions. The private franchise ambulance provider and any ambulance provider applying for an ambulance franchise shall allow the Forsyth County Emergency medical Services Director or his designee to inspect its stations, records, equipment and ambulances at any time without prior notice.

(Ord. No. 2-2008, 11-24-08)

Sec. 5-12. - Violations and penalties.

If any person shall violate this chapter, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00).

(Ord. No. 2-2008, 11-24-08)