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← Per client, this is the final version.

Adopted 8/3/15

REVISED WAKE COUNTY AMBULANCE SERVICES ORDINANCE
Draft 6/4/2015 –

Section 1. **TITLE XI, BUSINESS REGULATION, CHAPTER 111 AMBULANCE SERVICE** is hereby repealed, and replaced with the following revised ordinance:

Section 2. **EMERGENCY MEDICAL SERVICES AND AMBULANCE SERVICES**

§111.01 PURPOSE

The purpose of this chapter is to provide for a Wake County Emergency Medical Services System and for the regulation of other ambulance services in Wake County to the extent not otherwise limited by any municipality regulating ambulance services under N.C.Gen. Stat.153A-250 (c).

§111.02 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMBULANCE. Any publicly or privately owned vehicle that is specially designed, constructed or modified and equipped, and is intended to be used for and is maintained or operated for the transportation upon the streets and highways in the state of persons who are sick, injured, wounded or otherwise incapacitated. [Ref. G.S. 131E-155(1)]

AMBULANCE SERVICE. A publicly or privately owned enterprise that is engaged in the transportation of patients to emergency and/or nonemergency medical facilities.

BOARD. The Wake County Board of Commissioners.

CONTRACT EMS AGENCY. A municipal agency or a private, nonprofit organization which contracts with the County to provide Emergency Medical Services as part of the County EMS System.

COUNTY. Wake County, North Carolina.

CONVALESCENT AMBULANCE SERVICE. Ambulance services provided to individuals who are medically stable and need transportation but are unable to utilize regular ambulatory style transportation. Such services normally include the transportation of medically stable patients who are unable to sit-up to and from their home.

DEPARTMENT. Wake County Department of Emergency Medical Services.

DIRECTOR. Wake County Department of Emergency Medical Services Director or his designee.

EMERGENCY MEDICAL SERVICES or EMS. Services rendered by emergency medical services personnel as defined in N.C. Gen. Stat. 131E-155(7) in responding to address an individual's need for immediate emergency medical care in order to prevent loss of life or further aggravation of illness or injury. [Ref. GS 143-507(d)]

FIRST RESPONDER. The first dispatched medical or rescue aid to arrive at the scene and provide emergency medical assistance to stabilize the patient while waiting for further medical aid and/or transport.

FRANCHISE. A permit issued by the County under the authority of N.C.Gen. Stat. §153-250 for the operation of an Ambulance Service.

MEDICAL DIRECTOR. The physician responsible for the medical aspects of the management of the Wake County EMS System. [Ref.10A NCAC 13P .0102 (40)]

NON-EMERGENCY AMBULANCE SERVICE. Ambulance services other than those provided by the Wake County EMS System or a licensed Specialty Care Transport Program. Such services normally include transportation of medically stable patients to health care facilities, medical offices and facilities and long-term care facilities.

OEMS. The Office of Emergency Medical Service of the North Carolina Department of Health and Human Services, Division of Health Service Regulation.

OEMS RULES. North Carolina Administrative Code rules codified at 10A NCAC 13P, Emergency Medical Services and Trauma Rules.

PEER REVIEW COMMITTEE. The committee established under 10A NCAC 13P .0408 for the Wake County EMS System.

PREMIS SYSTEM. The Pre-Hospital Management Information System established by OEMS.

SPECIAL EVENT. An event conducted by a public or private agency involving participation of persons in such numbers or in such circumstances where the presence of additional emergency medical or ambulance services resources are requested by the event sponsor or deemed necessary by the Department.

SPECIALTY CARE TRANSPORT PROGRAM. A program designed and operated for the provision of specialized medical care and transportation of critically ill or injured patients

between health care facilities or between such facilities and residences or residential facilities.
[Ref.10A NCAC 13P .0102 (56)]

SYSTEM. The Wake County Emergency Medical System

§111.03. WAKE COUNTY EMERGENCY MEDICAL SYSTEM

(A) Composition. The Wake EMS System shall consist of the Department, Contract EMS Agencies, First Responders, and the Wake County 911 emergency telecommunications system, to the extent it is utilized for the provision of emergency medical care, and the Wake County EMS Peer Review Committee.

(B) Duties of the Department. The Department will enforce the regulations set forth in this ordinance and will perform related function, such as

- (1) Establish performance standards for the EMS System.
- (2) Negotiate and prepare agreements for approval by the Board for such Contract EMS Agencies as may be necessary for effective delivery of Emergency Medical Services with the EMS System
- (3) Inspect the premises, vehicles, equipment and staff qualifications of Contract EMS Agencies and franchisees to ensure compliance with this ordinance and applicable regulations.
- (4) Maintain records related to credentials of all personnel within the EMS System
- (5) Screen and evaluate all franchise applications from ambulance service providers and monitor franchisees, specifically
 - (a) Make recommendations to applicants when information is incomplete or otherwise fails to meet ordinance requirements
 - (b) Present the Department's evaluation of franchise applications to the Board and recommend grant or denial of franchises
 - (c) Recommend that the County Manager suspend a franchise or impose other sanctions under this ordinance when it determines a franchisee to be in violation of this Ordinance.
 - (d) Investigate complaints from the public and agencies or health facilities related to franchised ambulance services.

(C) Duties of the Director. The Director, or his designee, shall

- (1) Direct and oversee operational aspects of the EMS System
- (2) Report to the Board on the state of the EMS System, Non-Emergency Ambulance Services, and Convalescent Ambulance Services in Wake County; and
- (3) Present ambulance franchise applications to the Board.
- (4) Promulgate policies and procedures related to the operation of the System and Declarations of Emergency applicable to System, Non-emergency Ambulance Providers, Convalescent Ambulance Providers, and Specialty Care Transport Providers.

- (5) Provide for the necessary continuing professional education for credentialed EMS personnel in the system;
- (6) Provide, coordinate, approve and oversee the provision of emergency medical services for special events as designed herein.
- (7) Promulgate operational and clinical performance measures by which the system is evaluated and publicly reported.
- (8) Establish fees associated with this ordinance during the County's regular budget process.

§111.04. AMBULANCE SERVICE FRANCHISES.

(A) Purpose

The best interests of the citizens of Wake County are served by franchising non-emergency ambulance service, convalescent ambulance services, and Specialty Care Transport Services to assure adequate and continuing ambulance service and to preserve, protect, and promote the public health, safety and welfare. [Ref. N.C. Gen Stat. §153A-240(a)]

(B) Franchise Required

No person may furnish, operate, conduct, maintain, advertise or otherwise engage in or profess to be engaged in the provision of non-emergency ambulance service, convalescent ambulance service, or Specialty Care Transport Service within the geographic boundaries of Wake County unless the person has been either granted a franchise to do so by the Board pursuant to this ordinance or exempted from a franchise pursuant to this ordinance.

C) 1. No franchise shall be required for the provision of emergency ambulance service within Wake County. The provision of emergency advanced life support ambulance service is the sole responsibility of the Wake County EMS System. Therefore, no franchise shall be required for operation of ambulances by

- (1) employees of Wake County EMS,
- (2) a Contract EMS Agency as defined in this Ordinance,
- (3) an entity rendering assistance to the System at the request of the Director during a major emergency or when System resources are insufficient resources to meet the needs of the community for EMS or non-emergency ambulance service.

2. No franchise shall be required for the provision of ambulance transportation by a specialty care transport program operated by a hospital that is physically located within the geographic limits of Wake County.

3. The county may limit the number of ambulance franchises awarded consistent with the needs of the community. The county expressly reserves the right to amend, suspend, or revoke a franchise for any reason.

(D) Application for Franchise

Application for a franchise to provide non-emergency ambulance services, convalescent ambulance services or Specialty Care Transport Services in Wake County shall be made upon forms prepared or prescribed by the Department and shall contain:

- (1) The name and address of the applicant, who shall be the owner of the entity and any ambulances to be operated under the franchise. If the owner is a corporation, a certified copy of the articles of incorporation must be attached.
- (2) The address of the location in Wake County where the applicant will maintain a business office for transaction of business, including payment of bills.
- (3) The trade names under which the applicant does business, with a certified copy of an assumed name certificate or articles of incorporation stating such name.
- (4) Training, credentials and experience of the applicant, its agents and employees related to operation of non-emergency ambulance services and patients care.
- (5) A description of each ambulance owned or operated by the applicant, including chassis manufacturer, ambulance maker, year of manufacture, vehicle identification number, and NCOEMS permit number, if already permitted. A franchise may not be granted to applicant who owns/leases no ambulance vehicles.
- (6) An inventory of all equipment that will be carried aboard each ambulance. This equipment may not exceed the scope of practice of an EMT-Basic except when franchised by the Board of County Commissioners of another county to provide services in excess of the EMT-Basic scope of practice.
- (7) The location and description of places of business in Wake County where the applicant intends to locate ambulances.
- (8) A description of the applicant's capability to provide non-emergency ambulance services on a 24-hour per day, 7-day per week basis.
- (9) An official criminal record of the applicant if a sole proprietorship, of any partners if the applicant is a partnership, or any officers, directors, or managers of the applicant if a corporation or other business entity.
- (10) A statement that the applicant will not discriminate as to any person with regard to race, color, creed, national origin, or gender.
- (11) An audited financial statement, in such form and detail as the County may require.
- (12) A certificate of insurance currently in force, issued by an insurance company licensed to provide insurance in the State of North Carolina evidencing the following insurance coverage:

(a) Vehicle Insurance. For every ambulance owned or operated by the applicant providing for the payment of damages in the sum of \$1,000,000 for injury to or death of individuals in accidents resulting from any cause for which the owner of said vehicle would be liability on account of liability imposed on him by law, regardless of whether the ambulance was being driven by the owner, his agent, or any other person, and in the sum of \$1,000,000 for the loss of or damage to the property of another, including personal property.

(b) General Comprehensive Liability Insurance. A certificate of insurance currently in force and effect, issued by an insurance company licensed to provide insurance in the State of North Carolina, providing for the payment of damages in the sum of \$3,000,000 for general (non-vehicular) liability including medical malpractice.

- (13) A notarized statement certifying that the applicant is not debarred from receiving Medicare or Medicaid programs, nor currently the subject of debarment proceedings, and is and will remain in compliance with this ordinance, OEMS rules and all applicable state and federal statutes and regulations.
- (14) A non-refundable application fee, to defray the costs associated with processing the application, conducting investigations, providing such public notice as may be required by law, and ongoing oversight.

(E) Departmental Review.

Upon receipt of a complete application for a franchise, the Department will

- (1) Review the application for completeness and compliance with this ordinance,
- (2) Cause such investigation to be made as the Department deems necessary,
- (3) Determine whether the applicant meets the requirements for the award of a franchise under this Ordinance,
- (4) Make a recommendation to the Board of County Commissioners on whether to grant the application for franchise, and
- (5) Schedule a public hearing before the Board after providing all required public notices.

(F) Board Action.

The Board may grant a franchise upon finding the following fact:

- (1) The public will be served by granting the applicant a franchise, consistent with the policy set forth in the section 111.01 of this Ordinance, and
- (2) The application is accurate, complete and correct,
- (3) The applicant has produced adequate evidence of its ability to provide adequate and responsible non-emergency or convalescent ambulance service, and evidence that no owner, operator, agent or employee has been debarred from the Medicare or Medicaid program, or any other public benefit program of the United States or any other state.
- (4) The applicant holds all necessary licenses and permits from OEMS or will be fully qualified to obtain all necessary licenses and permits upon the award of the franchise.

(G) Conditions of Franchises granted by the Board.

- (1) A franchise issued by the county shall be valid for the term specified by the Board, not to exceed five years.

- (2) A franchise may be extended for additional term of the same number of years for which it was initially granted upon written application, submission of a renewal fee, and certification that the applicant has been continuously in compliance with all County and OEMS requirements and retains all necessary licenses and permits from OEMS.
- (3) No franchise may be sold, assigned, or transferred to or in any way vest in any person other than the applicant to whom the franchise is granted.
- (4) The applicant must maintain continuous insurance coverage in the amounts specified in subsection D of this Ordinance and submit new insurance certificates when coverage is changed or renewed.
- (5) Any change of ownership of a franchised ambulance service, including the acquisition of more than 10% of the common stock of any corporation by an individual not named as an owner in the original application, shall be considered a material change necessitating a new franchise application and issuance of a new franchise.

(H) Administrative requirements for franchised ambulance providers.

Each franchised ambulance provider must

- (1) Affiliate with the Wake County EMS system.
- (2) Submit data to the PreMIS system, CIS, and the Department, as required by OEMS or the Department.
- (3) Permit representatives of the Department to inspect vehicles, facilities, personnel, and records at times and in locations specified by the Department.
- (4) Employ, contract, or otherwise obtain the services of a Medical Director, as required by OEMS rules. The County's Medical Director shall not serve as the Medical Director for any franchised ambulance service.
- (5) Immediately transfer to the appropriate 9-1-1 center any call which reasonably appears to require emergency medical services or advanced life support services, including but not limited to Medical Priority Dispatch System classifications of CHARLIE, DELTA, OR ECHO.
- (6) Submit a plan for delivery of the following services to the Department, not later than June 30th of each year:
 - (a) Medical direction of the franchised service and the development and enforcement of medical protocols consistent with OEMS rules and Wake County EMS System protocols.
 - (b) Receiving calls and dispatching ambulances, including the criteria for screening calls, identifying calls not appropriate for their franchised level of response, and referring those calls to the appropriate 9-1-1 center.
 - (c) Continuing education for every level of EMS personnel provided by the franchisee.
 - (d) Employee background checks to assure that personnel employed in the delivery of franchised ambulance services have acceptable criminal and driving records.

- (e) Radio communications between ambulances, dispatch points and hospitals, as described in OEMS rules. Cellular telephone or other common carrier services may only be used as secondary communications for non-emergency ambulance service providers. The franchise shall provide county with a copy of the license(s) issued by the Federal Communications Commission authorized the use of license frequencies.
- (f) Telephone communications, including at least one land-line telephone which shall provide 24 hour per day access to ambulance dispatch service.
- (g) Participation in the franchised ambulance rotation program operated by the Department for those patients who access the 9-1-1 system, are assessed by EMS system personnel, and are determined to require ambulance transportation but not to require the services of an emergency ambulance. The Director shall promulgate standards for the franchised ambulance rotation program. A franchised ambulance service operated by a hospital system for the sole purposes of moving patients to and from its facilities is not required to participate in the franchised ambulance rotation program; however the non-participating service will not be permitted to pick up patients within Wake County from any but its own facilities.
- (h) Assuring that vehicles, personnel, equipment, and operating procedures are in compliance with applicable OEMS rules and statues.

(I) Operating requirements for non-emergency ambulance services:

- (1) Franchisees shall maintain all licenses and permits required by OEMS, and shall at all times be in compliance with OEMS rules.
- (2) Except when providing emergency services to the EMS system during a period of major emergency, as directed by the Director, or in other situations where the life or health of a patient so require, non-emergency ambulance providers shall not operate ambulances vehicles using emergency warning equipment (red lights and sirens) in Wake County.
- (3) In any circumstances where emergency warning lights and sirens are used by a non-emergency ambulance provider (except a specialty care transport provider) without prior authorization by the Director, the manager or owner of the franchise shall file a report with the Director disclosing the date, time, location, and justification for use of emergency warning equipment. Inappropriate use of emergency warning equipment by non-emergency ambulance providers may constitute grounds for sanctions or revocation of the franchise. This requirement does not apply to ambulance transports originating outside of Wake County.

- (4) The Director may promulgate operational performance standards for non-emergency and convalescent ambulance services, which apply to all franchisees.
 - (5) Upon the Director's declaration of major emergency, the Director may restrict or suspend non-emergency and convalescent ambulance operations in order to make ambulances available to the System. The Director shall promulgate and publish major emergency procedures, which will include reasonable compensation to non-emergency and convalescent ambulance services for such services provided to the County.
 - (6) Franchisees must make its records, premises and equipment available for inspection by the Director during normal business hours after reasonable notice to the franchisee, in order to insure compliance with this ordinance and any franchise granted hereunder. Franchisee must permit the director to inspect any ambulance and interview the personnel assigned thereto at any time and without prior notice except while the ambulance is actually transporting a patient.
- (7) Reporting requirements.
- (a) Annually, at least 45 days prior to the anniversary date of the issuance of the franchise, the franchisee shall report to the county in writing and under oath its compliance with this ordinance, OEMS rules, and applicable state statues during the previous year.
 - (b) Monthly, franchisees must submit to the Director a report that details the following information concerning the prior month of operation:
 - 1. Number of requests for ambulance transportation
 - 2. Number of patients transported
 - 3. For requests for service scheduled in advance, the percentage of on-time arrivals and the average delay for those calls for the ambulance did not arrive on time.
 - 4. For requests for service not scheduled in advance (either immediate or as soon as possible), the 90th percentile interval between the time of the requests and the arrival of the ambulance at the curb side of the building for which the request was made.
 - 5. Written details of any critical vehicle failure (failure of a vehicle after dispatch to a request for service or while transporting a patient.
 - 6. Written details of any vehicle collision after dispatch to a request for service or while transporting a patient.
 - 7. Number of calls to the service deemed to be emergent and referred to a 9-1-1 center for disposition.

§111.05. ENFORCEMENT; VIOLATION; SANCTIONS

- (A) The Department shall monitor and initiate enforcement of this Ordinance.

(B) Administrative Remedies. In the event of a violation of any section of this Ordinance or of any term or condition of a franchise issued hereunder, the violator may be assessed a penalty by the County Manager in the amount of \$500.00 or for each violation. Each day that a violation continues shall be deemed a separate violation. Notice of assessment of penalties may be appealed to the County Manager within 20 days of receipt of the notice, and the County Manager will schedule and hold a hearing on the assessment. Penalties may be recovered in the nature of a debt and the County may suspend or revoke a franchise. if the violator does not pay the penalty within ten days after being notified of the hearing decision . [Ref. N.C. Gen. Stat. §153A-123(c) and (g)]

(C) Civil Actions. The County may seek an injunction, abatement order, or other appropriate equitable or legal remedy to insure compliance with this ordinance. [Ref. N.C. Gen. Stat. §153A-123(d)]

(D) Criminal Penalties. Nothing herein shall prevent the County from initiating criminal action against any person, firm or corporation for violating any provision of this ordinance or any term or condition of a franchise granted hereunder as provided in North Carolina Gen. Stat. §14-4. [Ref. N.C. Gen. Stat. §153A-123.(b)]

§111.06. TERRITORIAL JURISDICTION.

The provisions of this Ordinance shall apply to all areas within the geographic boundaries of Wake County, including areas within a municipality unless the municipality's area has been specifically excluded by the Board. [Ref. N.C. Gen. Stat. §153-250(c).]

Sec. 3. Effective Date.

This ordinance shall become effective immediately upon adoption by the Wake County Board of Commissioners.

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