AN ORDINANCE WITH RESPECT TO THE FRANCHISING OF AMBULANCE SERVICES IN RANDOLPH COUNTY

Section 1. Purpose.

In the public interest and for the promotion of the public health, safety, welfare and convenience and pursuant to statutory authority contained in N.C.G.S. §153A-250, 153A-123, and other applicable laws, the following rules are adopted, which rules set forth the conditions, limitations, restrictions, and requirements under which a person may provide ambulance services or operate an ambulance in Randolph County.

Section 2. Definitions.

For the purposes of this ordinance, 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 future 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. The word "shall" is always mandatory and not merely directory.

(a). "Ambulance" shall mean any privately or publicly owned motor vehicle, aircraft, or vessel that is specially 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 N.C.G.S. §131E-155.

(b). "Ambulance Provider" shall mean an individual, firm, corporation or association who engages or professes to engage in the business or service of transporting patients in an ambulance.

(c). "Approved" shall mean approved by the state's Medical Care Commission pursuant to its rules and regulations promulgated under Chapter 143, Article 56 of the North Carolina General Statutes.

(d). "Board" shall mean the Randolph County Board of County Commissioners.

(e). "County" shall mean Randolph County, North Carolina.

(f). "Credentialed Personnel" shall mean an individual who holds a valid certification from the state that allows them to practice at any of the following levels: Medical Responder, EMT, EMT (epinephrine), EMT-D, EMT-I, and/or EMT-P, as defined in North Carolina General Statutes and any rules promulgated pursuant thereto.

(g). "Department" shall mean the North Carolina Department of Health and Human Services.

(h). "Dispatcher" shall mean a person who is available at all times to receive requests for emergency services, to dispatch emergency services, and to advise fire departments, law enforcement agencies and emergency medical facilities of any existing or threatened emergency.

(i). "Emergency" and "Emergency Transportation Service" shall mean the use of an ambulance, 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.

(j). "Non-emergency Transportation Services" shall mean the operation of an ambulance for any purpose other than transporting emergency patients."

(k). "Owner" shall mean any person or entity who owns an ambulance.

(l). "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, in accordance with N.C.G.S. §131E-155.

(m). "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.

(n). "State" shall mean the State of North Carolina.

Section 3. Standards.

(a). Standards for credentialed personnel shall be as developed by the State Medical Care Commission, the North Carolina Office of Emergency Medical Services, and the Randolph County Emergency Medical Services System, and shall be applied to the same as if incorporated herein by reference.

(b). Standards for vehicles and equipment shall be as developed by the State Medical Care Commission, the North Carolina Office of Emergency Medical Services and the Randolph County Emergency Medical Services System, and shall be applied to the same as if incorporated herein by reference.

Section 4. Communications and Dispatch Requirements.

(a). Each ambulance shall be equipped with communications compatible with those used by Randolph County Emergency Services. Randolph County Communications shall assign frequencies and record movements of applicant's ambulances.

(b). Each ambulance shall be required to render assistance to Randolph County Emergency Medical Services (EMS) in the case of a major catastrophe or emergency or when Randolph EMS units are unavailable to respond to emergency calls.

(c). Assigned emergency calls will have priority over scheduled non-emergency calls.

(d). When Randolph EMS units are dispatched to an emergency scene and an applicant's ambulance is available, closer to the scene, that ambulance is authorized to respond to the scene and provide assistance prior to Randolph EMS if:

(1). The County Communication Center is notified; and
(2). The applicant's ambulance is dispatched.

(e). If, on arrival, it is found that the situation is not an emergency, the patient may be transported by applicant's ambulance. Randolph EMS will continue to the scene if there is any question of the patient's actual condition. Patient's medical needs will be given priority. When necessary, patient will be released to Randolph EMS for treatment and transport.

(f). Any call received at a base or office of the applicant will be immediately referred to County Communications and the appropriate response will be determined.

Section 5. Insurance.

(a). No ambulance franchise shall be issued under this ordinance, nor shall such franchise be valid after issuance, unless the franchisee has at all times in force and effect insurance coverage issued by an insurance company licensed to do business in this state.

(b). This coverage shall provide:

(1). Appropriate Statutory Workmen's Compensation
(2). Auto Liability Coverage in an amount equal to or greater than that carried by Randolph County Emergency Services.
(3). General Liability Coverage in an amount equal to or greater than that carried by Randolph County Emergency Services.
(4). Medical Malpractice Coverage in an amount equal to or greater than that carried by Randolph County Emergency Services.

(c). Along with their application, the applicant shall provide the County with a copy of the Certificate of Insurance for the above. The insurance policy must list the County as a party to be notified in the event that the applicant's insurance is revoked, withdrawn, canceled, or allowed to lapse, or in the event that there is any change whatsoever in the above-described coverage amounts.

Section 6. Rates and Charges.

Each franchisee who charges for services shall set his rates and fees in accordance with those rates and fees set by the Board of County Commissioners for the County Department of Emergency Services.

Section 7. Franchise Required.

(a). It shall be unlawful for any person to provide ambulance services in Randolph County or to operate an ambulance in the County unless such person shall have first obtained and shall currently hold a valid franchise granted pursuant to this ordinance.

(b). No franchise shall be required for:

(1). Any entity rendering assistance to a franchised ambulance service in the case of a major catastrophe, mutual aid or emergency with which the services franchised by the County are insufficient or unable to cope;

(2). Any entity operated from a location or headquarters outside of the County in order to transport patients who are picked up beyond the limits of the County to facilities located within the County, or to pick up patients within the County for transporting to locations outside the County;

(3). Any ambulance owned and operated by an agency of the United States Government;

(4). 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.

(c). Any person who is providing ambulance services in the County or in any portion thereof on the effective date of the adoption of this ordinance is also entitled to a franchise to continue to service that part of the County in which the service is being provided. The Board of Commissioners has determined that Piedmont Triad Ambulance and Rescue Service and Ash-Rand Rescue and EMS, Inc. are the only ambulance services other than those operated by the County that are currently in operation in Randolph County and that both are in compliance with Chapter 131E, Article 7 and Chapter 143, Article 56 of the North Carolina General Statutes and any rules promulgated pursuant thereto and are each hereby granted a franchise to operate under the terms of this ordinance, upon the County's receiving proof of insurance in accordance with Section 5 above. Moses Cone Carelink is also currently operating an ambulance base in the County and is hereby granted a franchise to operate under the terms of this ordinance upon the County's receiving proof of insurance in accordance with Section 5 above, provided however that Moses Cone Carelink shall not be dispatched by the County nor shall they be subject to the provisions of Section 6 (Rates and Charges) above.

Section 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 trade or other fictitious names, if any, under which the applicant does business, along with a certified copy of an assumed name certificate stating such names or articles of incorporation stating such names;

(3). A resume of the training and experience of the applicant in the transportation and care of patients;

(4). A full 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 the operations in the County, such financial statement to be in such forms and detail as the County may require;

(6). A list of employees, job status, and North Carolina motor vehicle operator license numbers. This list must be kept current at all times;

(7). A list of vehicles, including the model, year and license numbers for each;

(8). Proof of required insurance;

(9). Proof of registered state certification for vehicles and employees; and,

(10). The address and physical location of all places where business is conducted; and,

(11). A consent form allowing the Director of County Emergency Services to inspect the applicant's stations, vehicles, equipment, and attendants' state medical certification cards 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 dollars ($1,000.00).

Section 9. Issuance and Renewal of Franchise.

(a). Upon receipt of an application for a franchise, the County shall schedule a time and place for hearing the applicant prior to an investigation. Within thirty (30) days after such hearing, the County shall cause such investigation as it may deem necessary to be made of the applicant and his proposed operations.

(b). A franchise may be granted if the County finds that:

(1). The applicant meets state standards and the standards outlined in this ordinance; and,

(2). A need exists for the proposed service in order to improve the level of ambulance services available to residents of the County and that this is a reasonable and cost effective manner of meeting the need. Where a franchise is to be issued to an existing service, there must be a need to maintain the existing level of service.

(c). The authority 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 persons, firms, or corporations at any time or for any period of time. No additional franchise granted by the County shall in any wise affect the obligations of the grantee hereunder.

(d). Each franchise shall be valid for two years from the date of its issuance.

(e). Each franchise may be renewed by submission of the renewal application to the office of the Emergency Services Director at least ninety (90) days prior to the expiration date of the franchise. After approval of said application by the Board of County Commissioners and upon payment of a renewal examination fee of five hundred dollars ($500.00), the applicant shall be issued a renewal certificate which shall validate the applicant's franchise for an additional two years.

Section 10. Termination.

(a). Either party, at its option, may terminate a franchise granted under this ordinance 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 a franchise by an operator constitutes an agreement to comply with required standards at all times. Each franchised ambulance service shall comply at all times with the requirements of this ordinance, the franchise granted hereby, and all applicable federal, state, and local laws relating to health, sanitation, safety, equipment, and ambulance design and all other laws and ordinances, including but not limited to Chapter 131E, Article 7 and Chapter 143, Article 56 of the North Carolina General Statutes, and the Emergency Medical Services System Plan adopted by Randolph County. Failure to comply will result in sanctions as provided in this ordinance up to and including the revocation of the franchise by the County.

(c). Upon suspension, revocation, or termination of a franchise granted hereby, such franchised ambulance service shall immediately cease operations. Upon suspension, revocation, or termination of a driver's license or attendant's certification, such persons shall immediately cease to drive an ambulance or to provide medical care in conjunction with the ambulance service.

(d). Upon any change in ownership of a franchised ambulance service made without prior written approval by the County, the County shall have the option to terminate the franchise effective immediately. No franchise shall be sold, assigned, mortgaged, or otherwise transferred, in whole or in part, without the prior written approval of the County. The County shall have the option to terminate the franchise, in either case, requiring a new application to be submitted, and a finding of conformance with all requirements of this ordinance as upon original franchising.

Section 11. Enforcement and Revocation of Franchise.

(a). **Inspection.** It shall be the duty of the Director of Randolph County Emergency Services to periodically inspect the stations and ambulances licensed under this ordinance in order to determine any violations of its provisions. Any ambulance provider applying for or holding an ambulance franchise pursuant to this ordinance shall allow the Emergency Services Director or his designee to inspect its stations, records, equipment and ambulances at any time with or without prior notice.

(b). **Criminal Penalties.** A violation of this ordinance, or the terms of any franchise granted hereunder, shall be a misdemeanor as provided by North Carolina General Statute 14-4.

(c) **Injunctive Relief.** The County may pursue any appropriate equitable remedy, a mandatory or prohibitory injunction, or an order of abatement as authorized by North Carolina General Statute 153A-123. If applicable, the County may execute an order of abatement if the violator does not comply with such order, and the costs of execution shall be a lien on the property in the nature of a mechanic's or materialman's lien.

(d). **Civil Penalties.** The County may pursue civil penalties through the issuance of citations for violations as provided below:

1. **Penalties.** When a violation occurs, the Emergency Services Director shall issue a written warning, citation, suspension or other violation penalty in accordance with the Violation and Penalty Matrix depicted below.

2. **Service.** Any written warning, notice or citation issued pursuant to this ordinance shall be delivered to the violator by: certified mail to its official headquarters.

3. **Contents.** Any citation issued pursuant to this ordinance shall include the nature of the violation, the amount of the civil penalty, information about where to pay the civil penalty, the deadline for payment, notification of daily penalties for continuing violations, and the notification of possible civil and criminal enforcement.

4. **Penalty Amount.** Along with any citation issued pursuant to this ordinance, the Emergency Services Director shall assess a civil penalty of up to five hundred dollars ($500.00). Determination of the amount of the civil penalty shall be based upon the Violation and Penalty Matrix depicted below.

5. **Deadline for Paying Civil Penalties.** All civil penalties shall be paid on or before thirty (30) days after receipt of the issuance of the citation. Failure to pay civil penalties within said deadline may subject the violator to a civil action in the nature of a debt.

6. **Continuing Violations.** The citation shall also include notice that a daily penalty of up to five hundred dollars ($500.00) shall be assessed for each day of continued violation and that the penalty shall be cumulative. If the violation continues for more than fifteen (15) days after receipt of the citation, the violator's franchise may be suspended pending further investigation or recommended for termination in accordance with paragraph (b) below.

7. **Settlement of Violations.** Once a violation has been corrected, the Emergency Services Director may waive payment of a single civil penalty or, in the case of a continuing violation, may reduce the amount to a single-day civil penalty, if one or more of the following factors are present:

    a) The violator has not previously received a citation for a similar violation;

    b) The violation does not directly impact the public health and safety of the community;

c) The violation was difficult to correct in an expeditious manner; or

d) The degree of noncompliance was not substantial.

If the violation has not been corrected, payment shall not release a violator from potential civil enforcement, criminal prosecution, injunctive relief, or an order of abatement.

8. **Appeals.** All appeals of citations must be filed in writing within thirty (30) days after the date of receipt of the citation by letter to the Randolph County Board of Commissioners. The appeal shall be heard at the next regularly-scheduled meeting of the Randolph County Board of Commissioners, provided said notice is received more than ten (10) days in advance of said meeting. If the notice of appeal is received ten (10) days or less from the date of the nearest regularly-scheduled meeting, then the appeal shall be heard the following month at the regularly-scheduled Board of Commissioners meeting.

9. **Judicial Action to Collect Civil Penalty.** The County may file a civil action in the nature of a debt in any court of competent jurisdiction to collect an unpaid civil penalty after the thirty (30) day deadline for paying the civil penalty, set out in the citation, has expired. Additional civil actions in the nature of a debt may be filed to collect an unpaid civil penalty for a continuing violation lasting more than thirty (30) days after the receipt of the citation.

(b). In the event that a provider has a single violation lasting for more than fifteen (15) days after receiving notice thereof or has a history of repeated violations of such nature and frequency as to indicate a pattern of disregard for compliance , the Director of County Emergency Services may notify the Board of County Commissioners and recommend revocation of provider's franchise.. The Board shall then determine if there is sufficient danger to the morals, public health, safety, or general welfare of the citizens and residents of the County to warrant revocation of the ambulance provider's franchise.

(c). Upon a determination that there is probable cause for revocation and after notification to the ambulance provider of such determination and the reasons therefore, the Board shall schedule a hearing at which the ambulance provider or his representative shall be afforded the opportunity to show good cause why his franchise should not be

revoked. Upon the ambulance provider's failure to show such good cause, the Board shall revoke the franchise.

This ordinance, first introduced on April 7, 2003, was unanimously adopted by the Randolph County Board of Commissioners on May 5, 2003.

This ordinance was amended on November 5, 2012.

I, Cheryl A. Ivey, Clerk to the Board of the Randolph County Board of Commissioners, do hereby certify that the foregoing ordinance was duly adopted by the Randolph County Board of Commissioners at a regular meeting thereof, a quorum being present.

This the 5th day of November, 2012.

Cheryl A. Ivey

Clerk to the Board

Amendments Summary:

This ordinance was amended on November 5, 2012 to incorporate changes that will strengthen the reliability of each agency and the regulation authority that the County should have. The changes are as follows:

1. Section 1 - Added General Statute 153A-123 for reference authority.
2. Section 3 a & b - Added the NC Office of EMS.
3. Section 4 a - Removed UHF and VHF two-way radio requirement.
4. Section 5 c - Added "Along with their application" and removed "annually."
5. Section 8 b - Increased the initial application fee from $300 to $1,000.
6. Section 9 e - Added "Emergency Services Director" and removed "County Manager."
7. Section 9 e - Increased the franchise renewal fee from $150 to $500.
8. Section 11 a - Added language allowing Director to inspect stations, records, equipment and ambulances at anytime with or without prior notice.
9. Section 11 b - Added criminal misdemeanor penalties.
10. Section 11 c - Added injunctive relief statement.
11. Section 11 d, 1-10 - Added descriptions of how the County may pursue civil penalties for violations.

VIOLATION and PENALTY MATRIX

VIOLATION	FIRST OCCURANCE	SECOND OCCURANCE	THIRD OCCURANCE
Refusal of response, patient care and/or transport. (Each incident will be reviewed and will exclude incidents due to vehicle failure, on-duty personnel who become ill or injured, and etc.)	Immediate suspension pending investigation with franchised supervisor and issuance of citation.	Suspend franchise for two days, plus $500 citation.	Recommend the Board of Commissioners permanently suspend the franchise for a period of six months – then require new application.
Unit not available at scheduled time (3 or more times within a 90 day period).	$100 citation.	$500 citation.	Suspend franchise for two days, plus $500 citation.
Unit going off-duty prior to scheduled time without prior notification (notification made by Agency Supervisor at the beginning of the shift).	Written Warning.	$100 citation.	$500 citation.
Negligent or willful failure to maintain necessary and required equipment in proper working order.	$100 citation per day.	$500 citation per day.	Suspend franchise until equipment is in working order.
Failure to follow radio procedures, policies, or rules and/or improper use of radio equipment.	Written warning.	Immediate suspension pending investigation with franchised supervisor and $100 citation per day while suspended.	$500 for each repeat occurrence.
Failure to meet the equipment standards as define by NCOEMS and Randolph County Emergency Services	$100 citation per day until corrected, up to suspension.	$500 citation per day until corrected, up to suspension.	Suspend franchise until equipment is in working order.
Failure to maintain the staff credentialing requirements as define by NCOEMS and Randolph County Emergency Services	Written warning.	$100 citation per day until corrected.	$500 citation per day until corrected.
Failure to attend 75% of the quarterly Randolph County EMS Quality Management Committee meetings	Written warning.	$100 citation.	$500 citation.
Failure to meet NCOEMS and Randolph County Emergency Services call times policies in the EMS System Patient Care Manual.	Written warning.	$100 citation per day until corrected.	$500 citation per day until corrected.
Fails to operate according to the protocol standards established by NCOEMS and the Randolph County EMS System Patient Care Manual.	Written warning up to suspension.	$100 citation per day, up to suspension.	Recommend the Board of Commissioners permanently suspend the franchise for a period of six months – then require new application.
All other violations not listed above.	Written warning.	$100 citation per day until corrected.	$500 citation per day until corrected.