

CHAPTER 8.10

AMBULANCE SERVICE ORDINANCE

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8.10.010 Short Title. This chapter shall be known and cited as the "Ambulance Service Ordinance".

8.10.020 Definitions.

- A. As used in this chapter, unless the context clearly indicates otherwise:
1. "Administrator" means the Administrator of the Douglas County Health and Social Services Department or their designee.

2. "Ambulance" means any privately or publicly owned motor vehicle that is regularly provided or offered to be provided for emergency transportation and treatment of persons suffering from illness, injury, or disability.

3. "Ambulance Service" or "Service" means the transportation of an ill, injured or disabled individual in an ambulance and, in connection therewith, the administration of pre-hospital medical and out-of-hospital medical emergency or non-emergency care, if necessary.

4. "Ambulance service area" or "ASA" means a geographic area which is served by one ambulance provider through a franchise.

5. "Board" means the Board of County Commissioners for Douglas County.

6. "County" means Douglas County, Oregon.

7. "Committee" means the emergency medical services advisory committee established by this chapter.

8. "Competitor" means any provider that submits a proposal for providing ambulance service in a contested ASA.

9. "Contested ASA" means an ambulance service area for which more than one provider intends to submit a proposal for providing ambulance service.

10. "Effective ambulance service" means ambulance service that meets or exceeds all standards set forth in this chapter, the ambulance service plan, applicable medical protocols and state law.

11. "Efficient ambulance service" means ambulance service that is provided at a reasonable cost to both consumers and taxpayers.

12. "Emergency" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, with an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

A. Serious jeopardy to the health of the individual or, in the case of a pregnant woman, the health of the woman or her unborn child;

B. Serious impairment to bodily functions; or

C. Serious dysfunction of any bodily organ or part.

13. "Emergency medical service" means those pre-hospital functions and medical services which are required to prepare for and respond to emergencies, including rescue, ambulance, treatment, communications, evaluation and public education.

14. "Entity" means and includes any partnership, public or private corporation, cooperative, limited liability company, state agency, unit of local government or other organization of any kind.

15. "Franchise" means an exclusive right to provide ambulance service for an ASA and non-exclusive right to provide non-emergency transport.

16. "Franchisee" means a provider that is granted a franchise by the county.

18. "Health Division" means the Health Division of the Oregon Department of Human Services.

19. "Letter of intent" means a letter submitted by a provider in response to a request by the county which states that the provider intends to submit a proposal to provide service for an ASA.

20. "License" with respect to ambulance service means the license issued to a provider by the Health Division in accordance with State law which authorizes the provision of ambulance service.

21. "Patient" means an ill, injured or disabled person who may be transported in an ambulance.

22. "Person" means a natural person.

23. "Plan" means the ambulance service plan adopted and implemented by Douglas County.

24. "Provider" means any person or entity that is qualified to provide ambulance service.

25. "Request for proposals" or "RFP" means a document issued by the county requesting competitors to submit information to the county concerning ambulance service that the competitor proposes to provide for one or more ambulance service areas.

26. "State law" means any and all Oregon Revised Statutes and Oregon Administrative Rules that govern emergency medical service.

B. The definitions that are contained in the plan, ORS Chapter 682 and OAR Chapter 333, Division 260, are incorporated in this chapter. However, the definitions in ORS Chapter 682 and OAR Chapter 333, Division 260 take precedence over any contrary definitions in subsection 8.10.020(A) or the plan.

C. Words, terms and phrases which are not specifically defined in this chapter, the plan or state law shall have the meaning ascribed to them in the emergency medical services field, unless the context clearly indicates otherwise. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

8.10.030 Purpose. This chapter is adopted to:

- A. Implement an ambulance service plan for Douglas County;
- B. Promote effective and efficient ambulance service for the citizens of Douglas County;
- C. Promote reasonable, fair and equitable rates for ambulance service;
- D. Promote financially stable ambulance service;
- E. Eliminate duplication of service, thereby minimizing consumer cost;
- F. Promote cooperation among the county, cities, special districts, and other government agencies;
- G. Provide standards for ambulance services;
- H. Promote public participation in regulation of ambulance service through a citizen's advisory committee;
- I. Promote the health, safety and welfare of the citizens of Douglas County; and
- J. Establish and implement fair and objective standards and procedures for the selection of a franchisee where multiple providers submit proposals for a single ASA, while avoiding undue burdens on county staff to develop standards and procedures for ambulance service areas in which there is only a single provider interested in providing service.

8.10.040 Authority.

A. This chapter is adopted to carry out the responsibilities and authority granted, delegated and imposed by ORS Chapter 823 and OAR Chapter 333, Division 28. This chapter occupies the field of ambulance service in the county to the full extent permitted by the laws of the State of Oregon.

B. Provisions of this chapter that are not specifically authorized or mandated by ORS Chapter 823 or OAR Chapter 333 govern matters of county concern and are adopted pursuant to ORS 203.035.

8.10.050 Exemptions. The provisions of this chapter shall not apply to:

A. Ambulances owned by or operated under the control of the United States Government.

B. Vehicles being used to render temporary assistance in the case of a major catastrophe or emergency with which the ambulance services of the surrounding locality are unable to cope.

C. Vehicles used to render temporary assistance at the scene of an accident as directed by a public official.

D. Vehicles operated solely on private property or within the confines of institutional grounds, whether or not the incidental crossing of any highway through the property or grounds is involved.

E. Vehicles operated by wood products or mining companies solely for the transportation of company employees.

F. Vehicles used to transport an inpatient of a health care facility between separate structures or locations at the health care facility for diagnostic or therapeutic procedures.

G. Vehicles with special equipment or functions which are based outside the county and are needed to transport patients that cannot be accommodated by a franchisee.

H. Vehicles used to transport a patient from a location outside of Douglas County.

I. Any person who drives or who attends an ill, injured or disabled person transported in a vehicle mentioned in subsections A to H of this section.

8.10.060 Requests for letters of intent to submit proposals.

A. Within ten days after this chapter takes effect, the administrator shall initiate franchisee selection procedures by giving public notice that the county is requesting letters of intent to submit proposals for providing ambulance service within ambulance service areas. The notice will include general selection criteria that will be used in the RFP process. Public notice shall be given by:

1. Publication of notice in a newspaper of general circulation within Douglas County;

2. Written notice by mail to licensed ambulance service providers in Douglas County and each county adjacent to Douglas County; and

3. Written notice by mail to any persons or entities who have requested the county to provide such notice.

B. Within thirty days after the date notice is published under subsection A of this section, providers shall submit letters of intent. A letter of intent shall commit a provider to submitting a proposal, certify that the provider is qualified to provide service for an

ASA, and contain information on the provider which is required by the notice, and commit the provider to furnishing bid security to the County within the number of days and in the amount specified by County in the County's request for letters of intent if there is more than one letter of intent for an ASA.

C. If the administrator does not receive any letters of intent to apply for a franchise for an ASA, the administrator shall again give public notice in the same manner as the first notice. The second notice shall be given within ten days after the date letters of intent were due under the first notice. Providers shall have thirty days to respond after the second notice is published. If no timely letter of intent is received in response to the second notice, the administrator shall refer the matter to the board with a recommendation to the board on further action. The board may elect to:

1. Enter into private negotiations with one or more franchisees or competitors for one or more contiguous ambulance service areas to provide service for all or part of the ASA for which no letter of intent was received. Upon completion of the negotiations, the Board may amend the plan's description of ambulance service areas to correspond with the privately negotiated ambulance service or emergency medical service; or

2. Consistent with the purposes stated in section 8.10.030, if the private negotiations in 1. above fail, take such action as will assure emergency medical service to the ASA for which no letter of intent was received.

8.10.070 Request for proposal for ambulance service area that is not contested.

A. This section applies only to ASAs that are not contested. If only one letter of intent from a provider is received for an ASA, the administrator shall request a proposal from that provider within twenty days after the due date for letters of intent. The proposal shall be due sixty days after the administrator issues the request. The proposal shall be reviewed by the administrator for compliance with minimum standards for ambulance service established by state law, the plan, and this chapter.

B. If the administrator determines that the proposal meets or exceeds current levels of service in the ASA and that the proposal complies with the minimum standards and requirements established by state law, the plan and this chapter, the administrator shall recommend in writing that the board grant the franchise to the provider that submitted the proposal.

C. If the administrator determines that the proposer is not qualified to operate a franchise or the proposal is deficient in any aspect that may be detrimental to health or safety of patients, the administrator shall notify the provider of the deficiencies in the provider's qualifications or the proposal and request a revised proposal. The provider shall then have thirty days to submit a revised proposal to the administrator. If the provider fails to submit a revised proposal as requested or the administrator determines that a revised proposal continues to be deficient, the administrator shall refer the matter to the board with a recommendation on further action.

D. Any action required of the administrator under subsection B or C of this section shall be effected within thirty days after:

1. The administrator receives the initial proposal or a revised proposal; or
2. The provider fails to submit a revised proposal within the time allowed by subsection C.

E. Within thirty days after receiving a recommendation from the administrator pursuant to subsection B or subsection C of this section, the board may either overrule or affirm the administrator's decision and either grant or tentatively deny the franchise.

F. The board may grant a franchise under this section without a public hearing. If the board tentatively decides to deny a franchise under this section, the board shall hold a hearing on the proposal not less than thirty days or more than sixty days after the board makes such decision. Written notice of the hearing shall be given to provider not less than twenty days before the hearing. At the hearing the provider, the administrator and the county counsel may:

1. Present testimony and documentary evidence;
2. Make oral arguments; and
3. Submit written arguments.

G. The board may deliberate toward a decision on the franchise at the hearing and at subsequent meetings. The provider shall be given notice of such meetings, but if the provider attends the meetings comments on the issues will not be allowed without the express approval of the board. In the course of deliberations, the board may confer with the county counsel and the administrator. Within thirty days after the hearing pursuant to subsection F, the board shall grant or deny the franchise. The decision of the board shall be supported by substantial evidence in the whole record and shall contain written findings of fact and conclusions.

H. If the board grants a franchise pursuant to this section, the provider shall execute a franchise agreement in accordance with section 8.10.140. If the provider fails to execute a franchise agreement within thirty days after the board signs findings of fact and conclusions, the board may retract the decision to grant franchise.

I. If the board does not grant a franchise or retracts a decision to grant franchise pursuant to this section, the board shall treat the ASA in the same manner as an ASA for which no letter of intent is received in accordance with subsection 8.10.60 C.

8.10.080 Procedure for issuing request for proposals for contested ASA.

A. If two or more letters of intent with complete provider profiles are duly received for an ASA, the administrator shall initiate selection proceedings in accordance this section.

B. Within thirty days after the due date for letters of intent, the administrator shall issue a notice to each provider that submitted a letter of intent for a contested ASA stating that the provider must furnish bid security to the County within the number of days and in the amount specified by County in the County's request for letters of intent.

The notice shall state that if a provider fails to submit bid security as specified, then the provider's letter of intent shall be deemed to be withdrawn. If no providers submit bid security as specified, then the administrator shall proceed as described in section 8.10.060 C. If only one provider submits bid security as specified, then the administrator shall proceed as described in section 8.10.070 for an uncontested ASA. If two or more providers submit bid security as specified, then the administrator shall, within thirty days of the due date for bid security, issue a preliminary RFP to each provider that submitted a letter of intent and bid security for a contested ASA. The RFP shall describe:

1. The required form of the proposals;
2. The procedure for submission, withdrawal, and evaluation of proposals;

3. The information that must be included in a responsive proposal including, but not limited to, the information addressed in section 8.10.090; and

4. How information contained in proposals will be weighed to determine which competitor is most likely to provide the most effective and efficient ambulance service within the ASA.

C. Providers shall be allowed thirty days after the preliminary RFP is issued to make written comments on the provisions of the RFP. The administrator shall schedule a meeting not less than thirty days or more than sixty days after the preliminary RFP is issued to answer questions and receive oral comments on the provisions of the RFP. Written notice of the meeting shall be given to competitors not less than twenty days before the meeting.

D. Within thirty days after the meeting to receive comments on the preliminary RFP, the administrator shall issue the RFP in final form.

E. Proposals shall be due sixty days after the RFP is issued in final form.

F. Bid security must be in the form of cash, a surety bond, irrevocable letter of credit issued by an insured institution as defined in ORS 706.008, cashier's check, or certified check. When the franchisee is selected by the County, all other providers' bid security will be returned to them. When the franchisee selected by the County executes and returns to County the franchise agreement and all related requirements (such as insurance certificates), then the franchisee's bid security will be returned. If the franchisee selected by the County fails to execute and return to County the franchise agreement and all related requirements or otherwise fails to complete the contracting process, then franchisee's bid security shall be forfeited to County and shall be taken and considered by County as liquidated damages and not as a penalty.

8.10.090 Content of proposals for contested ASA.

A. The RFP shall require competitors for a contested ASA to provide all information described in this section and any other information the county may deem necessary to determine which competitor will provide the most effective and efficient ambulance service.

B. The proposal shall address the competitor's qualifications for providing ambulance service that meets or exceeds the standards established by the plan. The competitor must demonstrate in the proposal that the competitor:

1. Has adequate vehicles and equipment to provide ambulance service within the ASA, or has entered into one or more binding contracts to obtain such vehicles and equipment; such contracts may be contingent only upon obtaining a franchise to serve the ASA;

2. Has key personnel who are qualified, capable and available to be assigned to provide ambulance service; and

3. Has experience in providing ambulance service in Douglas County or elsewhere or has other emergency medical service experience which is sufficient to assure that the competitor can provide effective and efficient ambulance service.

C. The proposal shall describe how the competitor plans to provide ambulance service in the ASA. The competitor must demonstrate in the proposal that the competitor:

1. Has adequate business and operational plans for providing effective and efficient ambulance service throughout the term of the franchise;

2. Will be able to comply with standards for ambulance service that are established by state law, the plan and this chapter;
3. Will be able to provide liability insurance in an amount determined adequate by the county, as set forth in the RFP;
4. Is committed to providing public information and education;
5. Has an adequate transitional plan for assuming complete responsibility for ambulance service within the ASA as ambulance service from other providers is phased out;
6. Can assure that prompt appropriate level of care will be provided to persons in the ASA;
7. Will have a reasonable continuing educational program for EMT and dispatch employees;
8. Will make good faith efforts to coordinate ambulance services with other emergency medical service providers including existing first response providers;
9. Is able to comply with provisions of this chapter and the plan regarding disaster response and mutual aid;
10. Is able to assure high quality clinical performance; and
11. Is able to provide and maintain vehicles, equipment, buildings and other facilities necessary for providing ambulance service at the level described in the proposal.

D. The proposal shall state the full cost of providing ambulance service at the level described in the proposal. The full cost of ambulance service shall include fair and accurate allocations for "dual use" personnel, equipment, structures and other facilities that will provide or support ambulance service. The proposal shall include comprehensive, verifiable information on:

1. Projected capital expenditures for vehicles, equipment, buildings and other facilities necessary for providing ambulance service at the level described in the proposal, including debt service and expenses necessary to obtain debt financing;
2. Debt service for previously purchased vehicles, equipment, buildings and other facilities that will be used during the term of the franchise.
3. Start-up costs for implementing any new programs or systems necessary to provide effective and efficient ambulance service;
4. Maintenance costs for vehicles, equipment, buildings and other facilities necessary for providing ambulance service at the level described in the proposal;
5. All insurance costs, including liability and workers' compensation;
6. All personnel costs including supervision, training, wages, fringe benefits and taxes;
7. All costs of operation including water, sewer, garbage, electricity, gasoline and consumable supplies;
8. All other direct and indirect costs such as costs for legal services, accounting, computer processing time, purchasing, human resources, collection and other administrative and overhead expenses;
9. All costs of goods and services provided by subcontractors;
10. If the competitor or any participant in the proposal is public body, the cost of services provided by any department of the public body; and
11. If the competitor chooses, a reasonable rate of return on the owner's investment in the business.

E. The proposal shall describe the competitor's financial resources for paying the cost of ambulance service and the competitor's plan for maintaining financially stable ambulance service. The competitor must demonstrate in the proposal that the competitor:

1. Is financially capable of providing ambulance service at the level stated in the proposal throughout the term of the franchise;
2. Is committed to charging fair and equitable rates for ambulance service;
3. Is able to pay wages and provide other benefits that will attract and retain qualified employees;
4. Can assure stability of rates necessary to maintain the quality of care described in the proposal during the term of the franchise;
5. Has a realistic projection of short-term and long-term expenditures and revenues commensurate with financial stability which takes into account receivables that will be uncollectible;
6. Has and will maintain net worth necessary to endure economic fluctuations that affect ambulance services; and
7. Has the experience and resources necessary to maximize collection of revenues from fees.

F. If the competitor or any participant in the proposal is a public body the proposal shall include the following information concerning municipal finance:

1. If any direct or indirect costs of providing ambulance service will be funded with tax revenues or other general revenues that are subject to annual appropriation, the proposal shall either identify alternative sources of revenue or include a feasible plan to obtain alternative sources of revenue to cover costs in the event tax revenues or other general revenues are curtailed during the franchise term.
2. If the proposal is based on the premise that specific revenues can be dedicated and continually appropriated to pay for ambulance service costs, the competitor shall provide an opinion letter from a member of the Oregon State Bar confirming that such appropriation will continue throughout the term of the franchise.
3. The proposal shall provide a summary of results of all elections on the public body's tax levies or tax base during the ten years preceding the date of the proposal. The proposal shall include detailed information on any curtailment or interruption of emergency services resulting from failure a tax measure.

G. If the competitor is a joint venture, consortium, intergovernmental agency or any other group of discrete entities acting for common purpose, it must provide an opinion letter from a member of the Oregon State Bar describing the competitor's organizational structure and confirming its legal validity. Whatever form a group of entities takes, all entities participating in the proposal must delegate executive power to a single administrative body. The governing body must be able to obligate the competitor to conform to the terms of a franchise agreement.

H. The proposal shall disclose the names and addresses of any persons or entities who have made claims against the competitor within the last five years alleging that the competitor negligently performed ambulance services. Claims must be fully disclosed in the proposal regardless of whether they involved litigation or other formal dispute resolution process.

I. The RFP shall include a franchise agreement in a form that conforms to section 8.10.140 of this chapter. The proposal must indicate acceptance of the

provisions of the county's franchise agreement or suggest reasonable alternatives. Unconditional refusal to accept the provisions of county's franchise agreement without offering acceptable alternatives may result in the disqualification of the competitor.

J. Each competitor shall be allowed to review proposals from competitors at any time after the date proposals are due. Competitors may submit comments on the proposals of competitors within fifteen days after proposals are due, and copies of such comments shall be provided to the competitors.

K. This section describes the basic information that will be addressed in requests for proposals for contested ambulance service areas. The county reserves discretion to request additional information in proposals as the county deems necessary.

8.10.100 Appointment of hearings officer to evaluate proposals for contested ASA.

A. The board shall appoint an impartial hearings officer with knowledge of emergency medical services to review proposals for a contested ASA. The board shall give all competitors for the ASA written notice of the identity of the appointee within ten days after the appointment is made.

B. Any competitor may challenge the appointee selected by the board by giving the board and other competitors written notice within ten after receiving notice of appointment from the board. Any challenge must clearly state the basis for the challenge and include a statement of facts that support the challenge.

C. The board shall have exclusive discretion to determine whether the hearings officer will be disqualified. The board shall disqualify the appointee only if the board finds that:

1. The appointee does not have sufficient knowledge of emergency medical services to understand evidence and make findings of fact concerning proposals.

2. The appointee has any past or present significant financial, professional, social or familial relationship with a competitor that will prevent the appointee from rendering a fair, impartial decision.

D. The board shall give competitors written notice of its decision to confirm or disqualify an appointee. If the board determines that an appointee should be disqualified, a new appointment shall be made and the procedure for challenges set forth in this section shall be repeated.

8.10.110 Hearings.

A. A hearings officer appointed by the board pursuant to section 8.10.100 shall schedule a hearing on proposals not less than thirty days or more than sixty days after:

1. The last day on which competitors can submit a challenge pursuant to subsection 8.10.100 B., or

2. If a challenge is made pursuant to subsection 8.10.100 B, the date on which the board gives the competitors written notice confirming the appointment of the hearings officer 8.10.100 D.

B. The hearings officer shall give competitors written notice of the hearing at least twenty days before the hearing date.

C. The hearings officer may confer with competitors concerning the hearing date. The hearings officer shall endeavor in good faith to accommodate competitors'

schedule conflicts, but the date of the hearing shall not be later than the last date allowed by subsection A of this section without written consent of all competitors.

D. A competitor may be represented at a hearing by an attorney or an authorized principal or agent of the competitor.

E. In the written notice of the hearing and at the beginning of a hearing, the hearings officer shall explain the hearing procedure, the order of presentation of evidence, what kinds of evidence are admissible, and what kinds of objections may be made.

F. A verbatim record of testimony and other discourse at the hearing shall be made by stenographic or mechanical means. The administrator may provide for a transcript of the hearing. Tapes, stenographic notes and transcripts shall be part of the record for the hearing.

G. The hearings officer shall relate at the hearing any written or oral ex parte communications between the hearings officer and any person concerning facts that are relevant to the proceeding. The hearings officer shall grant competitors the right to respond to such communications.

H. The hearings officer shall have authority to:

1. Regulate the course, sequence and decorum of the hearing;
2. Dispose of procedural requirements and similar matters;
3. Rule on offers of proof and admissibility of evidence;
4. Impose reasonable time limits on direct examination, cross examination, testimony and oral arguments; and
5. Take such other action appropriate for conduct commensurate with the nature of the hearing;

I. Competitors shall make available at the hearing witnesses with knowledge to explain and verify representations made in their proposals.

J. Competitors may present oral and written testimony and evidence. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. All exhibits received shall be marked for identification and included in the record.

K. Irrelevant, immaterial or unduly repetitious evidence may be excluded by the hearings officer. Evidence of a type commonly relied on by reasonable prudent persons in conduct of serious affairs may be received by the hearings officer. The hearings officer shall observe legal rules of privilege. Objections to evidentiary offers may be made and shall be noted in the record. An erroneous ruling on an objection to evidence shall not affect decision on the record unless the ruling clearly and substantially prejudices the rights of a competitor.

L. The hearings officer may take notice of judicially cognizable facts, provisions of the plan and evidence presented in the hearings for adoption of the plan and adoption of this chapter. If the hearings officer has knowledge of general and technical facts concerning emergency medical services, the hearings officer may take official notice of such facts. Any official notice shall be acknowledged on the record.

M. Competitors shall have the right to cross-examine witnesses regarding testimony, documentary evidence and information in proposals. Competitors shall have the right to submit evidence for rebuttal and impeachment of witnesses.

N. County counsel and the administrator may participate in the hearing, present documentary evidence and question witnesses.

O. The competitors shall have an opportunity for oral argument at the end of the hearing.

P. Within sixty days after the conclusion of the hearing the hearings officer shall issue written findings of fact that address criteria for selection of the franchisee as established by the RFP and other matters at issue. In conjunction with the findings of fact the hearings officer shall state conclusions identifying the relative advantages and disadvantages of competing proposals. Before taking final action the hearings officer may submit proposed findings and conclusions to the competitors, county counsel and the administrator for written comment. All actions taken by the hearings officer with respect to findings and conclusions shall be made a part of the record. The findings and conclusions shall not be final until reduced to writing and signed by the hearings officer. When the hearings officer's findings and conclusions are finalized they shall be submitted to the administrator, the board, the competitors and the county counsel.

8.10.130 Selection of Franchisee.

A. Upon receiving the hearing officer's findings and conclusions described in subsection 8.10.110 P, the board shall schedule a hearing on selection of the franchisee not less than thirty days or more than sixty days after the board receives the findings and conclusions of the hearings officer. The board shall give competitors written notice of the hearing not less than twenty days before the hearing date.

B. At the hearing the board shall receive oral and written arguments by the competitors and the administrator, but no new evidence shall be received.

C. The board's criteria for selection of the franchisee shall include the criteria established by the RFP; the requirements and standards imposed by the plan and this chapter; the purposes of this chapter; and the requirements and standards imposed by state law.

If the provider whose franchise is expiring submits a proposal to continue providing ambulance service within its ASA, the county may give preference to that franchisee, if:

1. The franchisee has made substantial investments in equipment and facilities;
2. The franchisee has provided effective and efficient ambulance service during the expiring franchise term;
3. The franchisee has complied with the provisions of the franchise agreement, the plan, this chapter and state law during the expiring franchise term;
4. No other provider has submitted a proposal that clearly assures substantial improvement in efficiency and effectiveness of ambulance service; and
5. The franchisee has agreed to provide the level of service required in the plan at the time of the renewal.

The board shall consider oral and written arguments by the competitors and the administrator; the findings and conclusions of the hearings officer; the record of the hearing before the hearings officer; and oral advice offered to the board by the county counsel. For purposes of review, the record of hearing before the hearings officer shall include:

1. Letters of intent and provider profiles;
2. The request for proposals including addenda;
3. Tape recordings, stenographic notes and transcripts of testimony and other discourse at the hearing;

4. Any written or oral ex parte communications related by the hearings officer;

5. Evidence that of which the hearings officer took official notice;

6. Exhibits;

7. Motions, briefs, letters, affidavits, memoranda and other written communications submitted by competitors and the administrator to the hearings officer concerning the hearing;

8. All letters, affidavits, memoranda and other documents issued by the hearings officer at the hearing before the board or subsequent meetings of the board.

D. After receiving oral arguments from competitors and the administrator, the board shall close the hearing and deliberate toward a decision. The board may hold subsequent meetings to deliberate and confer with the county counsel and the administrator. Competitors shall be given notice of such meetings, but if they attend they shall not be allowed to participate in or comment on deliberations of the board.

E. In the course of deliberations, the board may request the county counsel and the administrator to draft tentative findings of fact and conclusions.

F. Upon conclusion of its deliberations, the board shall tentatively grant the franchise to the competitor that the board determines will be most likely to provide the most effective and efficient ambulance service within the ASA.

G. The decision of the board shall be supported by substantial evidence in the whole record and shall contain written findings of fact that address criteria for selection of the franchisee and conclusions stating the relative advantages and disadvantages of competing proposals. The board shall have exclusive discretion to determine:

1. The weight to be accorded evidence in the proceedings;
2. The relative importance of selection criteria; and
3. The intent and application of the plan, this chapter and the RFP.

H. When the board tentatively grants a franchise pursuant to this section, the provider selected by the board shall execute a franchise agreement in accordance with section 8.10.140. If the provider initially selected by the board fails to execute a franchise agreement within thirty days after the board signs findings of fact and conclusions, the board may disqualify that provider and make another selection in accordance with this section.

8.10.140 Franchise Agreements.

A. Every provider that is tentatively granted a franchise to provide ambulance service within an ASA shall sign a franchise agreement that contains provisions that:

1. Incorporate the provisions of the proposal, the RFP, this chapter and the plan;

2. Incorporate applicable standards for ambulance service;

3. Specify the equipment and facilities that must be maintained by the franchisee;

4. Require the franchisee to provide ambulance service for the entire ASA, and prohibit any discontinuation or interruption of service for the term of the franchise agreement;

5. Cover mutual aid and disaster response;

6. Restrict transfer of the franchise and subcontracting in accordance with sections 8.10.150 and 8.10.160 of this chapter;

7. Require liability insurance;
8. Allow the county to audit or review the franchisees' business records;
9. Allow the county to inspect records, equipment and facilities of the franchisee in the course of investigating an alleged violation of this chapter or the franchise agreement;
10. Require the franchisee to inform the administrator of consumer complaints and to respond to complaints in accordance with policies established by the committee;
12. Establish rates or a procedure for setting rates for ambulance service;
13. Authorize the county to intervene to prevent discontinuation or interruption of ambulance service under Section 8.10.170 of this chapter; and
14. Require the franchisee to use the 911 emergency dispatch center designated by the county for the ASA and pay any fee for such dispatch service as set by the board.

B. If the franchise is for an ASA that is not contested and the franchisee is a public body or volunteer organization, the board may waive any of the requirements under subsection A of this section if the franchisee is legally unable to comply with the requirement or the requirement will cause undue hardship.

C. The initial term of each franchise shall be five years unless terminated earlier pursuant to this chapter. However, the RFP and franchise agreement may provide for up to one additional term of five years each (unless terminated earlier pursuant to this chapter) upon the mutual agreement of the County and the franchisee. In making a decision whether to grant an additional term, the County shall determine whether the franchisee has sufficiently met the following performance criteria (supported by written finding of fact from the Committee and written conclusions from the Board):

1. The franchisee has made substantial investments in equipment and facilities;
2. The franchisee has provided effective and efficient ambulance service during the expiring franchise term;
3. The franchisee has complied with the provisions of the franchise agreement, the plan, this chapter and state law during the expiring franchise term; and
4. The franchisee has agreed to provide the level of service required in the plan at the time of the renewal.

D. If a franchise is not to be granted an additional term as provided for in the second sentence of subsection 8.10.140 C., then three-hundred-and-sixty days prior to the date a franchise term will expire, the administrator shall initiate selection proceedings in accordance with sections 8.10.060 to 8.10.140.

8.10.150 Transfer of Franchise.

A. No franchise or any interest therein shall be transferred by sale, enforcement of creditors' rights, marital dissolution, inheritance, operation of law or other voluntary or involuntary action without prior approval of the board. If the franchise is held by a corporation, a stock transfer that would result in changing the controlling interest in a corporation shall be considered a transfer of the franchise.

B. A request for transfer of a franchise shall be submitted to the administrator. The request shall be signed by the existing franchise holder and the person or entity to whom the franchise is proposed be transferred.

C. The administrator shall require the proposed transferee to furnish a proposal containing all or part of the information required for a proposal under section 8.10.070 or a proposal under section 8.10.090.

D. The scope of the proceedings for review of the request for a transfer and the requirements for the proposal may be abridged by the administrator, commensurate with the scope of service provided under the existing franchise.

E. If, after reviewing the proposal, the administrator determines that the proposed transferee is qualified to operate the service under the franchise and that the proposed transferee will provide service that meets or exceeds current levels of service in the ASA, the administrator may recommend in writing that the board approve the transfer of the franchise.

F. If the administrator determines that the proposed transferee is qualified to operate the service, but other providers may have an interest in competing for the franchise, the administrator may recommend that the board initiate selection proceedings in accordance with sections 8.10.060 to 8.10.140 of this chapter.

G. If the administrator determines that the transferee is not qualified to operate the franchise or the proposal is deficient in any respect that may be detrimental to health or safety of patients or deficient in compliance with the existing franchise, the administrator shall notify the franchisee and the proposed transferee of the deficiencies in the qualifications and the proposal and request a revised proposal. The transferee shall then have thirty days to submit a revised proposal to the administrator. If the transferee fails to submit a revised proposal as requested, or if the administrator determines that a revised proposal is unacceptable, the administrator may recommend that the board initiate selection proceedings in accordance with sections 8.10.060 to 8.10.140 of this chapter.

H. Any action required of the administrator under subsection E, F or G of this section shall be effected within thirty days after:

1. The administrator receives the initial proposal or a revised proposal; or
2. The transferee fails to submit a revised proposal within the time

allowed by subsection G.

I. Not less than thirty days or more than sixty days after the board receives the recommendation of the administrator, the board shall hold a hearing on the proposed transfer. Written notice of the hearing shall be given to the franchisee and the transferee not less than twenty days before the hearing. At the hearing the franchisee and the transferee may present testimony and documentary evidence and oral and written arguments. The board may allow other interested persons to testify and present other evidence at the hearing.

J. The board may deliberate toward a decision on the transfer at the hearing and at subsequent meetings. The franchisee and the transferee shall be given notice of such meetings. If franchisee or transferee or both attend the meetings, comments on the issues will not be allowed without the express approval of the board. In the course of deliberations, the board may confer with the county counsel and the administrator. Within thirty days after the closing the hearing, the board shall approve or disapprove the transfer. The decision of the board shall be supported by substantial evidence in the whole record and shall contain written findings of fact and conclusions.

K. If the board approves a transfer pursuant to this section, the franchisee and the transferee shall execute an assignment of the franchise agreement which shall provide that the transferee assumes all obligations of the franchise under the franchise.

If the franchisee and transferee fails to execute a assignment within thirty days after the board signs findings of fact and conclusions, the board may retract the decision to approve the transfer.

L. If the board disapproves a transfer or retracts a decision to approve a transfer pursuant to subsection K and the current franchisee notifies the board that it does not want not to continue service throughout the term of the franchisee, the administrator shall initiate selection proceedings in accordance with sections 8.10.060 to 8.10.140 of this chapter.

M. Pending selection of a new franchise and execution of a new franchise agreement, the existing franchisee shall continue ambulance service in accordance with the provisions of its franchise.\

N. The new provider will give preference to hiring the existing employees of the current provider.

8.10.160 Subcontracts.

A. Except as provided in the franchise agreement approved by the board, and except as provided in subsection F of this section, a franchisee shall not subcontract with others to provide any part of the ambulance services covered by the franchise without obtaining the prior approval of the board in accordance with this section.

B. Except as provided in subsections C and D of this section, requests for approval of a subcontract, and requests for approval of a transfer of any interest in an existing subcontract, shall be reviewed in the same manner as requests for transfer of a franchise.

C. The scope of the proceedings under this section and the requirements for the proposal for a subcontract may be abridged by the administrator, commensurate with the scope of service to be provided under the subcontract.

D. Approval of a subcontract may be subject to reasonable conditions that the board deems necessary to preserve and promote the effectiveness and the efficiency of the subcontracted service. A proposed subcontract shall be approved if:

1. The subcontractor is qualified to operate the service covered by the subcontract, and the subcontractor clearly demonstrates an ability to provide subcontracted service that meets or exceeds current levels of such service in the ASA;

2. The subcontractor will accept and be bound by all conditions of the franchise that apply to the subcontracted services.

3. The subcontractor will comply with all provisions of the plan, this chapter and state law; and

4. The franchisee is capable of assuming and performing the services covered by the subcontract upon default of the subcontractor without diminishing effectiveness or efficiency of such services.

E. Upon approval of a subcontract under subsection D the franchisee and subcontractor shall execute a subcontract that contains the conditions imposed by the approval.

F. The franchisee shall not be required to request approval of subcontracts for the following services:

1. Maintenance of vehicles, equipment or facilities;

2. Dispatching;

3. Support services such as legal services, accounting, payroll, billing, data processing and purchasing; and

4. Services performed under subcontracts approved through the franchisee selection process.

G. Approval of a subcontract shall not relieve the franchisee of responsibility for providing and maintaining ambulance service in accordance with the terms of the franchise.

8.10.170 Preventing Discontinuation or Interruption of Ambulance Service.

A. A franchisee shall not discontinue or interrupt service in all or any part of an franchisee's ASA during the term of the franchise without approval of the board. In the event that a franchisee expects that discontinuation or interruption of service may occur, the franchisee shall immediately give the administrator written notice of the potentiality of such occurrence.

B. Except as provided in subsection C, if the board is notified by any person that there is an actual or threatened discontinuation or interruption of ambulance service, the board shall hold a hearing before taking any action to prevent such discontinuation or interruption. The franchisee shall be given reasonable notice of the hearing. Following the hearing, if the board finds that discontinuation or interruption has occurred or is likely to occur, the board may take preventive or remedial authorized by subsection D of this section.

C. If the board finds that the health, safety or welfare of residents within the ASA subjected to discontinuation or interruption of ambulance service will be seriously threatened without immediate remedial action, the board may act under subsection D of this section without prior notice and hearing. After taking such action, the board shall give reasonable notice and conduct a hearing to reconsider its action under this subsection.

D. To prevent or remedy discontinuation or interruption of service the board may:

1. Authorize another franchisee or any other qualified person or entity to provide temporary ambulance service for the ASA; and
2. Initiate proceedings to terminate the franchise of the franchisee that failed to provide service, and
3. Initiate proceedings to select a new franchisee.
4. Take such other actions as may be necessary to protect the health or safety of patients and to assure the continuation of service within the affected ASA.

E. The provider selection process must be completed six months prior to the start date of a new provider to allow for a smooth transition of operations.

F. The new provider shall start operation immediately upon the expiration of the previous provider's franchise or sooner by mutual agreement with the approval of Douglas County and the current provider.

8.10.180 Rates regulated by county.

A. Rates for ambulance services that are established in the franchise agreement may not be changed during the term of the franchise, except as provided in this section or section 8.10.185.

B. Except as provided in subsection C, rates shall not be changed under this section, unless there has been a demonstrated material and significant change in:

1. The cost of fuel;

2. The cost of liability insurance;
3. Statutes, rules, or regulations affecting the cost of providing ambulance service; or
4. Other specific costs that could not be reasonably anticipated by the provider when the franchise agreement was executed.

C. In addition to the factors listed in subsection B, if the franchisee is a public body that is funding ambulance service with tax revenues or other general revenues that are subject to annual appropriation, rates may be changed to compensate for shortfalls in such tax revenues or other general revenues.

D. The franchisee shall submit a written request for a rate change under this section to the administrator. The request shall state:

1. Existing and proposed rates;
2. Whether the rate change is authorized by subsection B or subsection C of this section; and
3. Facts supporting the proposed change.

E. Not less than thirty days or more than sixty days after the administrator receives the request from the franchisee, the board shall hold a hearing on the proposed rate change. Not less than twenty days before the hearing date, written notice of the hearing shall be given to the franchisee and notice of the hearing shall be posted in three public places, one of which shall be within the ASA.

F. At the hearing the franchisee may present testimony and documentary evidence and oral and written arguments. The board may allow other interested persons to testify and present other evidence at the hearing. The franchisee shall have the burden of proving that the rate change is within the scope of subsection B or subsection C and that the rate change is unavoidable.

G. The board may deliberate toward a decision on the rate increase at the hearing and at subsequent meetings. The franchisee shall be given notice of such meetings. If franchisee attends the meetings, comments on the issues will not be allowed without the express approval of the board. In the course of deliberations, the board may confer with the county counsel and the administrator. Within thirty days after the hearing, the board shall approve or disapprove the transferee's request or grant a different rate change that the board deems appropriate. The decision of the board shall be supported by substantial evidence in the whole record and shall contain written findings of fact and conclusions. The franchise agreement shall be amended to incorporate any rate change.

8.10.185 Rates set pursuant to franchise. If the franchisee is a public body, the franchise may authorize to the governing body of the franchisee to set rates through a procedure that is open to public comment. The franchise shall establish a procedure for the board to review decisions of the governing body of the franchisee concerning rates. Rates set pursuant to this subsection shall not be subject to section 8.10.180.

8.10.190 Termination of franchise.

A. A franchise granted under this chapter shall continue in full force and effect until terminated in accordance with this section.

B. The county may terminate a franchise if the franchisee:

1. Intentionally violates this chapter or state law;
2. Intentionally violates the terms of the franchise

agreement;

3. Intentionally attempts to manipulate a patient's selection of hospital preference or discriminate against any hospital operating within the county in violation of procedures established pursuant to subsection 8.10.210 B 4;

4. Materially misrepresents facts in information submitted to the county under this chapter;

5. Discontinues or interrupts service; or

6. Repeatedly fails to comply with the plan, state law, this chapter or the franchise agreement after the administrator gives written notice of non-compliance and a reasonable opportunity to correct deficiencies.

C. If the administrator has reasonable cause to believe that a franchisee has committed any act described in subsection B of this section, the administrator shall notify the board and the franchisee of the charges against the franchisee. Within twenty days after the board receives such notice, the board shall appoint an impartial hearings officer with knowledge of emergency medical services to review the charges against the franchisee.

D. The hearings officer shall schedule a hearing on the charges against the franchisee not less than thirty days or more than sixty days after the hearings officer is appointed.

E. The hearings officer shall give the franchisee written notice of the hearing at least twenty days before the hearing date.

F. The procedure for the hearing before the hearings officer and review by the board shall substantially conform to the procedure for selection of a franchisee under subsections D through O of section 8.10.110 and section and 8.10.130 (except subsections F, G, and H) of this chapter.

G. Upon conclusion of its deliberations, the board shall make its decision. The decision of the board shall be supported by substantial evidence in the whole record and shall be in writing and contain written findings of fact that address the evidence in the record of the hearing and conclusions concerning the charges against the franchisee. Based on such findings and conclusions, the board may determine if the franchise remains in effect or order that the franchise terminated.

H. In lieu of immediate termination of the franchise under subsection G., the board may order the franchisee to take appropriate remedial action. If the franchisee does not comply with the board's order within the time period stated in the order, the board may impose the termination at its discretion without further proceedings.

I. If a franchise is terminated under this section the board may authorize the franchisee to continue service until a new franchisee is selected or order the franchisee to cease all service and in conjunction with such order take any action authorized under section 8.10.170 for discontinuation or interruption of service.

J. The county may prosecute a franchisee or any other person or entity for violations of this chapter and impose penalties pursuant to County Code Section 1.08.010 without following the procedures specified in this section. No provision of this chapter shall be construed to limit prosecution of a franchisee or any other person or entity under state law.

8.10.200 Administrator.

A. The administrator shall be responsible for administering the provisions of this chapter. The administrator shall serve at the pleasure of the board.

- B. The administrator shall have the authority and duty to:
1. Make recommendations to the committee and the board on all matters pertaining to ambulance services.
 2. Make recommendations to the committee and the board on amendments to this chapter and the plan.
 3. Make recommendations on fees for reviewing franchise proposals, issuing franchise agreements and transferring franchises.
 5. Take any action specifically authorized by this chapter;
 6. Perform any other acts that may be necessary to administer the plan and enforce this chapter.

8.10.210 Emergency Medical Services Advisory Committee.

A. The Douglas County Emergency Medical Services Advisory Committee is hereby established as an advisory body with the authority to assist and advise the administrator and the board on regulation of ambulance services.

B. The committee shall be responsible for overseeing the county plan to assure that purposes of this chapter are fulfilled. The committee shall have the authority and duty to:

1. Perform any functions and duties delegated to the committee in the plan.
 2. Make recommendations to the board on amendments to this chapter or the plan.
 3. Make recommendations on implementation of the plan, this chapter, and state law.
 4. Establish procedures for reviewing and responding to consumer complaints and other input from the public, patients, medical professionals and other interested persons and entities regarding ambulance service provided by franchisees.
 5. Establish procedures for periodic review of franchisees' performance;
- and
6. Review of franchise agreements and make recommendations to the administrator and board.

C. Actions taken by the committee shall be subject to review by the board. If the board elects to review actions of the committee, the board may affirm, overrule, or modify such actions.

D. The administrator shall compile and maintain policies and procedures recommended or established by the committee. The board may to incorporate such policies and procedures in this chapter or the plan.

E. The board shall appoint nine qualified persons as voting members of the committee. The voting members shall include:

1. One physician with emergency medical care experience.
2. One paramedic.
3. One hospital administrator.
4. One registered nurse with emergency medical care experience.
5. One law enforcement officer.
6. One representative of a fire department.
7. One accountant or other person who is qualified to review financial issues.

8. Two members of the public who are not included in categories specified by subsections E 1 through 6.

F. Members of the committee shall be deemed to be public officials for purposes of the Government Ethics Law (ORS chapter 244) [*Ord 2014-04-01, sec read 5-14-14, effec date 8-18-14*]

G. The administrator shall be a non-voting ex officio members of the committee. The board may direct other agents, officers or employees of the county to assist and advise the committee. Ex officio members shall serve for indefinite terms until they are removed by the board or resign.

H. The board initially shall appoint five voting members for terms of three years, and four voting members for terms of two years. After the initial term, each voting member shall be appointed for a term of three years. At the expiration of a voting member's term, the board shall appoint a new member or may reappoint a member for a term of three years. The board shall endeavor to appoint committee members from different organizations and geographic areas. If a voting member is removed by the board or resigns from the committee any replacement member shall serve for the remainder of the term of the member being replaced. All members of the committee shall serve at the pleasure of the board.

I. The committee shall hold an organizational meeting and elect a chair and a vice-chair within thirty days after this chapter takes effect. Thereafter, the chair and the vice-chair shall be elected between July 1 and July 31 each year. The chair shall preside at all meetings of the committee and shall conduct the meetings in accordance with procedural rules established by the committee. The vice-chair shall perform the duties of the chair when the chair is unable to perform his or her duties or when the office of the chair is vacant.

J. The committee shall meet at the call of the chair, the vice-chair, the administrator or any five voting members. The committee shall meet as necessary to perform the duties established by of this chapter and not less than four times per year. The administrator shall assist the committee in scheduling meetings. The administrator shall provide a recording secretary for committee meetings. The administrator shall be responsible for compliance with applicable provisions of ORS Chapter 192.

K. Five voting members shall constitute a quorum. No decision shall be made by the committee unless a quorum is present. Five members must vote in favor of any proposed decision or action of the committee before it may be implemented.

L. The members of the committee shall receive no compensation for services provided as members, except for reimbursement of actual and necessary travel and other expenses incurred in the performance of their duties. Requests for reimbursement of expenses shall be submitted to the administrator.

8.10.220 Fees. The board may, by written order, establish fees to cover the cost of reviewing franchise proposals, issuing franchises, transferring franchises and otherwise enforcing and implementing this chapter and the plan.

8.10.230 Ambulance service plan.

A. The committee shall review the Douglas County Ambulance Service Plan annually to determine whether amendments are necessary.

B. If the committee recommends amendment of the plan, the board shall hold a public hearing on the proposed amendments. Public notice of the hearing shall be given at least thirty days prior to the date of the hearing. Public notice shall include:

1. Publication of notice in a newspaper of general circulation within Douglas County;
2. Written notice by mail to franchisees and other persons or entities that provide emergency medical services within the county; and
3. Written notice by mail to any persons or entities who have requested the county to provide such notice.

C. Following the hearing, the board may amend the plan by ordinance in compliance with state law.

D. The provisions of the plan are incorporated herein by reference.

8.10.240 Prohibitions, Enforcement.

A. No person or entity shall provide emergency ambulance service within Douglas County without a valid franchise for such service unless the person or entity is exempt under Section 8.10.050 of this chapter.

B. Subsection 8.10.240 A shall not apply to:

1. A franchisee whose franchise has expired, until a new franchisee is selected.

C. Violation of subsection 8.10.240 A shall be a public nuisance.

D. Violation of any provision of a franchise by a franchisee shall be a public nuisance.

E. The county make take any action necessary to prevent violation of this chapter including filing an action in Douglas County Circuit Court for injunctive and any other appropriate relief.