

## **CHAPTER 6 –BUSINESS AND FRANCHISE**

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### **PART 1 – ADULT BUSINESSES**

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### **ARTICLE 1 - REGULATING MASSEURS, MASSAGE PARLORS, HEALTH SALONS AND CLUBS**

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Section 1. Purpose, Applicability and Authority.

To protect the general health, safety, welfare and morals, the following licensing provisions hereinafter specified are ordained for the privilege of carrying on the business, trade, or profession of masseur or masseuse and for the operation or carrying on of the businesses, trade or professions commonly known as massage parlors, health salons, physical culture studies, clubs or establishments, or similar establishments by whatever name designated, wherein physical culture, massage, hydrotherapy or other physical treatment of the human body is carried on or practiced.

The provisions of this article shall not apply to a regularly established and licensed hospital, sanitarium, nursing home or medical clinic, nor to the office or clinic operated by a duly qualified and licensed medical practitioner, osteopath, or chiropractor in connection with his practice of medicine, chiropractor or osteopathy, provided, however, that such office or clinic is regularly used by such medical practitioner, chiropractor or osteopath as his principal location for his practice of medicine, chiropractic or osteopathy.

County of Columbus is authorized to regulate certain businesses within its jurisdiction pursuant and under authority of North Carolina General Statutes 153-A-45.

Section 2. Definitions.

**Masseur** means a male person who applies manual or mechanical massage or similar treatment to the human body trunk or limbs.

**Masseuse** means a female person who applies manual or mechanical massage or similar treatment to the human body trunk or limbs.

Section 3. License.

A. Any person desiring to engage in the business, trade or profession of masseur or masseuse or the operation or carrying on of any of the businesses, trades, professions, occupations or callings mentioned in Section 1 shall, before engaging in such business, trade, profession, occupation or calling, file an application for a license addressed to the Columbus County Tax Collector. Such application shall be in writing and shall set forth the following:

1. Name and address of applicant. If such applicant be a corporation, the address or addresses of such corporation and its officers.
2. Qualifications. These must be plainly stated and must be submitted together with required exhibits annexed to said application proving such qualifications.

Section 4. Qualifications of Applicant for License.

- A. An applicant hereunder, prior to making application for a license, must have the following qualifications:
1. The applicant may be male or female and shall be required to provide written recommendations showing proof of good moral character; and, in case the applicant is a corporation, such corporation must be created in or domesticated by the laws of the State and the officers thereof shall provide written recommendations showing proof of good moral character.
  2. Each applicant must furnish a health certificate from a medical doctor which shall accompany such application as an exhibit. Such health certificate shall be furnished for each masseur and masseuse who will be actually working under said license. Each employee who begins work as a masseur or masseuse following the original issuance of a license under this article shall likewise obtain a health certificate. A copy of the application and all certificates shall be furnished to the Sheriff of Columbus County. Said medical doctor must be licensed to practice in North Carolina.

Section 5. Issuance and Renewal of License and Payment of Fees.

- A. After submission of an application and approval of such application by the Columbus County Tax Collector and upon payment to the Columbus County Tax Collector of an examination fee of Five Hundred Dollars (\$500.00) for each premises and Fifty Dollars (\$50.00) for each masseur or masseuse in excess of three (3) to be employed or trained by the licensee on such premises, the Columbus County Tax Collector shall issue a license to the applicant.
- B. Each license shall be valid for the calendar year in which issued, expiring on the thirty-first day of December of the year of issue.
- C. Each license may be renewed from calendar year to calendar year by submission of the renewal application to the Columbus County Tax Collector at least thirty days prior to the expiration date of the license. After approval of said application and upon payment to the Columbus County Tax Collector of a renewal examination fee in the same amount as prescribed for initial applications, the County Tax Collector shall issue to the applicant a renewal certificate which shall validate the applicant's license for an additional calendar year. It shall be a valid basis for the denial of a license or a nonrenewal of a license if the Columbus County Tax Collector determines that the applicant or licensee has violated this Ordinance in any respect whatsoever or any other law or ordinance concerning the operation of any business, trade, profession, occupation or calling mentioned in Section 1 of this Ordinance. Any application or renewal on such grounds shall be appealable as any other denial according to the terms of Section 5.D.

- D. Approval of an application for issue or renewal of a license by the Columbus County Tax Collector shall be granted if he or she is satisfied as to the qualifications of the applicant, the correctness of the information contained in his or her application, the good moral character if the applicant is a corporation. If the license is denied because he or she is not so satisfied, the applicant shall be notified of the denial and the reason therefor and, upon his request, at the reasonable convenience of the Board of County Commissioners, the applicant shall be granted an opportunity to appear before said Board and be heard in defense of his application. After such hearing the Board may grant or deny the license.
- E. If the business to be licensed pursuant to this Ordinance is carried on at two or more separate places, a separate county license for each place or location of such business shall be required.
- F. The county license issued under this Ordinance shall be and constitute a personal privilege to conduct the profession or business named in the license and shall not be transferrable to any other person, and shall be construed to limit the person named in the license to conducting the profession or business and exercising the privilege named in the license to the location specified in the license; provided, if the holder of a license under this chapter moves the business for which a license has been obtained to another location, a new license may be issued to the licensee at a new location for the balance of the license year, upon surrender of the original license for cancellation.
- G. Revocation of a license shall not be cause for a refund of any fee paid for issuance or renewal of a license.
- H. It shall be unlawful willfully to make a false statement in an application for a license or request, for renewal of license under the provisions of this Ordinance.
- I. Every license or renewal of license issued shall show on the face thereof the name of the licensee, the nature of the business, the location thereof, the time it was issued, and payment of the fee.
- J. Licenses shall be kept posted where business is carried on. No person shall engage in any business or trade for which the issuance of a license pursuant to this Ordinance is required without having such license posted conspicuously at the place where such business or trade is carried on.

Section 6. Authority to Employ, Train Personnel.

Any applicant granted a license hereunder shall have the authority to train masseurs or masseuses under his supervision in his studio or establishment provided that the licensee shall furnish to the Sheriff of Columbus County, there to be kept by such Department, a health certificate of such employee from a medical doctor and provided that other requirements of this ordinance are met.

Section 7. Names of Employees to be Filed with Sheriff of Columbus County.

It shall be the duty of all persons holding a license hereunder to file with the Chief of Columbus County Police or the Sheriff of Columbus County the names of all employees, their home addresses, home telephone numbers and place of employment. Changes in the list of employees with the names of new employees must be filed with the Chief of the Columbus County Police or the Sheriff of, Columbus County within three business days from the date of such change.

Section 8. Employment of Persons Convicted of Certain Crimes.

No establishment licensed under the provisions of this Ordinance shall employ or continue the employment, of any person convicted within three (3) years of a violation of this Ordinance or any State or local statute prohibiting prostitution, lewdness, or indecent exposure or of any crime involving moral turpitude on the part of such person. Any person refused employment or discharges under the provisions of this section shall be given notice of the reason for such refusal and afforded an opportunity to be heard by the Board of County Commissioners in protest of the accuracy of a report of conviction. It shall be the duty of the Chief of the Columbus County Police or the Sheriff of Columbus County to check all names and other identifying data of employees submitted by establishments regulated by this Ordinance against available records of convictions in courts of this and the several States and the United States and to inform such establishment of the existence of records and convictions of any of its current or prospective employees. It shall be the duty of any owner, officer, or employee to provide any reasonable identifying data including fingerprints to assist the Chief of the Columbus County Police or the Sheriff of Columbus County in the performance of his duties. Failure to assist the Chief of the County Police or the Sheriff of Columbus County is just cause for denial or revocation of a license granted under this Ordinance.

Section 9. Enforcement and Revocation of License.

- A. It shall be the duty of the Chief of the Columbus County Police or the Sheriff of Columbus County, or his deputies, to inspect periodically, the premises licensed under this Ordinance, to determine any violations of its provisions, and to otherwise enforce said Ordinance.
- B. Upon acquiring substantial and reasonable evidence that an establishment requiring licensing under this Ordinance, or an owner, officer, or employee of such establishment, has violated a provision of this Ordinance, that a crime involving violence or moral turpitude has been committed by owners, officers, employees, customers, members, or guests on the premises of such an establishment, or that acts defined as nuisances under state or local statute have occurred on or about the premises of such establishment, and upon acquiring information of a conviction of any owner, officer, employee, customer, member or guest of such establishment for the aforementioned violations, crimes and acts or nuisance, the Sheriff or the Chief of the Columbus County Police shall notify the Board of County Commissioners of such evidence or conviction. The Board of County Commissioners shall then determine if there is sufficient

danger to the morals, public health, safety or general, welfare) of the citizens and residents of Columbus County to warrant revocation of the license of the establishment concerned. Upon determination that there is probable cause for revocation and after notification to the licensee of such determination and the reasons therefor, the Board of Commissioners shall schedule a hearing at which the licensee or his representative shall be afforded an opportunity to show good cause why his license should not be revoked. Upon licensee's failure to show good cause, the Board of County Commissioners shall revoke such license.

- C. In addition to the other requirements as to health certificates herein provided for, each masseur, masseuse, or other person who actually works under said license, shall have their health certificate renewed every sixty (60) days and provide the Columbus County Tax Collector a copy thereof. Said health certificate must be signed by a medical doctor licensed to practice in North Carolina. Any person purporting to operate under a license issued hereunder without a current health certificate as described in this subsection is guilty of a misdemeanor.

Section 10. Hours of Operation.

No masseur or masseuse or any person or party engaging in any of the businesses licensed by this article shall engage in such business, trade, profession, occupation or calling except within and between the hours of 8:00 A.M. and 10:00 P.M.; nor shall any operator of a massage parlor or establishment or business above enumerated and not specifically expected hereunder, operate the same except within and between the aforesaid hours.

Section 11. Certain Practices Proscribed.

- A. It shall be unlawful for any person engaging in the business, trade, or profession of masseur or masseuse, or any officer or employee of such persons, or any customers or member of an establishment requiring licensing under the provisions of this Ordinance, to engage in the following practices on or about the premises of such an establishment:

1. To offer or provide a massage to any person without having a currently valid license to do so except when under the supervision as an employee or trainee of a person with a currently valid license.
2. To touch, manipulate, uncover or otherwise have physical contact with the genital organs of any person, whether directly or indirectly or whether such organs are covered or not.
3. To go lie about such establishment without the genital organs being covered at all times.
4. To provide or accomplish massage or any treatment offered by the establishment in private areas, which for the purpose of this provision are defined as areas:
  - a) designated to accommodate only a single customer or member and a single masseur or masseuse; and
  - b) in which the activities of such persons cannot be seen by a "supervisor" without opening a door or window or using a peep-hole or same similar device denying

“normal” vision.

- B. To operate or maintain an establishment requiring a license under the provisions of this Ordinance without posting in readable print in permanent places inside the establishment notice of the-practices which are declared unlawful under this Section and Section 12.
- C. It shall be unlawful for any person holding a license under this article to treat a person of the opposite sex except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten (10). The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by deputies at any reasonable time. The requirements of this section shall not apply to treatments given in the residence of a patient, the office of a licensed physician, osteopath, or registered physical therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium.
- D. It shall be unlawful for any person to perform any massage or other treatment authorized or prohibited under this Ordinance in a place licensed under this Ordinance without being fully clothed.

Section 12. Patronage of Massage Parlors by Minors.

- A. It shall be unlawful for any person under the age of eighteen (18) to patronize any massage parlor or similar establishment licensed hereunder unless such person carries with him at the time of such patronage, a written order directing the treatment to be given by a regularly licensed physician.
- B. It shall be the duty of the operator of such massage parlor or similar establishment license hereunder to determine and have verification of the age of the person patronizing such establishment, and violation of this section shall be grounds for the revocation of the license of the establishment.

Section 13. Massages by Unlicensed Persons.

Massages as permitted by this article may be given by persons not holding a license as a masseur or masseuse only if such massages are given under the direct supervision of a person having a license as a masseur or masseuse who shall be in the same room where the massage is being administered during the entire time of the giving of the massage.

Section 14. Applicability.

The Provisions of this Ordinance with respect to the original issuance of license shall not apply to those engaged in the business, trade, professions, occupations, or callings enumerated above who have been so engaged in the County for a period of five (5) years or more prior to the adoption of this Ordinance; provided however, that the provisions of this Ordinance shall apply to all such businesses, trades, professions, occupations, or callings shall be properly licensed as provided herein within twenty (20) days of the effective date of this Ordinance.

Section 15. Violations.

If any person shall violate any provision, rule, or regulation of this Ordinance, he shall be guilty of a misdemeanor and upon conviction, punished as prescribed by North Carolina General Statutes 14-4. Each day that any person shall continue to do any act in violation of any such provision, rule, or regulation shall be and constitute a distinct and separate offense.

Section 16. Inducement to Violate Ordinances or Provisions of General Statutes Relating to Sexual Misconduct.

It shall be unlawful for any person to induce a licensee or employee or agent thereof to violate this Ordinance or any provision of the General Statutes of North Carolina involving sexual misconduct including but not limited to G. S. 14-177 through 202.1, (Offenses Against Public Morality and Decency), Article 26 and G. S. 14-203 through 208, Article 27, (Prostitution).

Section 17. Enactment and Effective Date.

Adopted this the 3rd day of October, 1977. This Ordinance shall become effective on the 17th day of October, 1977.

**ARTICLE 2 - SEXUALLY ORIENTED BUSINESSES**

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Section 1. Authority and Jurisdiction.

The provisions of this Article are adopted by the Columbus County Board of Commissioners under authority granted by the General Assembly of the State of North Carolina, in Chapter 153A, Section 135 of the General Statutes. From and after the effective date hereof, this Article shall apply to every building, lot, tract or parcel of land within the county exclusive of the jurisdiction of any incorporated municipality (as herein stated), and all lands under the ownership thereof.

Section 2. Purpose.

For the purpose of promoting the health, safety, morals and general welfare of the citizenry of Columbus County, this Article is adopted by the Board of Commissioners to regulate adult and sexually oriented businesses, as hereby defined, located in Columbus County. Further, the regulations of this Article have been made with reasonable consideration, among other things, as to the character of the County and its areas and their peculiar suitability for these businesses.

Section 3. Abrogation.

These regulations shall not repeal, impair, abrogate or interfere with any existing easements, covenants, deed restrictions, setback requirements, rules, definitions, regulations previously adopted pursuant to law in any established zoning district in Columbus County. However, where these regulations impose greater restrictions, the provisions of these regulations shall govern.

Section 4. Definitions.

The following words, terms and phrases appearing in this Chapter shall have the meanings appearing below, unless the context establishes a different meaning:

**Adult Arcade:** an establishment where, for any form of consideration, one (1) or more motion picture projectors, slide projectors or similar machines for viewing by five (5) or fewer persons each are used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas (as defined hereinafter).

**Adult Bookstore:** an establishment that has as a substantial portion (over twenty-five (25%) percent of total retail space) of its stock-in-trade and offers for rent or sale, for any consideration, any one (1) or more of the following:

- A. Books, magazines, periodicals or other printed material, or photographs, films, motion pictures, video cassettes, slides or other visual representations, that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or
- B. Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

**Adult Business:** any business activity, club or other establishment which permits its employees, members, patrons or guests on its premises to exhibit any specified anatomical areas before any other person or persons.

**Adult Motion Picture Theater:** an establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion twenty-five (25%) percent of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

**Adult Theater** means a theater, concert hall, auditorium or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

**Massage** means any manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device.

**Massage Business** means any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios or massage parlors.

**Sexually Oriented Business** means any business activity, club or other establishment, within which the exhibition, showing, rental or sale of materials distinguished or characterized by an emphasis on material depicting, describing or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, adult theaters and

massage parlors, as defined by this Article.

***Specified Anatomical Areas*** means less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.

***Specified Sexual Activities:***

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse, sodomy; or
- C. Fondling or other exotic touching of human genitals, pubic regions, buttocks or female breasts.

***Total Retail Space*** means any space within the structure that is used for the direct sale of merchandise to the public and storage areas for those items.

**Section 5. Separation Requirements and Non-Conforming Businesses.**

A. Adult Business: No adult business shall be permitted in any building:

- 1. Located within three thousand (3,000') feet in any direction from a building used as a dwelling.
- 2. Located within three thousand (3,000') feet in any direction from a building in which an adult business or a sexually oriented business is located.
- 3. Located within five thousand (5,000') feet in any direction from a building used as a church, synagogue or other house of worship.
- 4. Located within five thousand (5,000') feet any direction from a building used as a public school or as state licensed day care center.
- 5. Located within five thousand (5,000') feet in any direction from any lot or parcel on which a public playground, public swimming pool, or public park is located.

B. Sexually Oriented Business: No sexually oriented business shall be permitted in any building:

- 1. Located within three thousand (3,000') feet in any direction from a building used as a dwelling.
- 2. Located within three thousand (3,000') feet in any direction from a building in which an adult business or a sexually oriented business is located.
- 3. Located within five thousand (5,000') feet in any direction from a building used as a church, synagogue or other house of worship.
- 4. Located within five thousand (5,000') feet in any direction from a building used as a public school or as a state licensed day care center.
- 5. Located within five thousand (5,000') feet in any direction from any lot or parcel on which a public playground, public swimming pool or public park is located.

C. Nonconforming Adult Business and Sexually Oriented Adult Business:

An adult business or sexually oriented business lawfully operating on February 21, 2000, that is in violation of this Article shall be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue for a period not to exceed two (2) years. Such nonconforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. If a nonconforming use is discontinued for a period of one hundred eighty (180) days or more, it may not be reestablished. If two (2) or more adult businesses or sexually oriented adult businesses are within one thousand (1,000') feet of one another and otherwise in a permissible location, the business which was first established and continually operating at its present location shall be considered the conforming use and the later established business(es) shall be considered nonconforming. An adult business or sexually oriented adult business lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a dwelling, church, house of worship, day care center, school, playground, public swimming pool or public park within five thousand (5,000') feet of the adult business or sexually oriented business.

Section 6. Interpretation of Terms and Definitions.

- A. Words used in the present tense include the future tense.
- B. Words used in the singular number include the plural and words used in the plural number include the singular.
- C. The word "person" includes an owner, firm, joint venture, association, organization, partnership, corporation, trust and company, as well as an individual.
- D. The word "owner" when applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by entirety of the whole or part of such building or land.
- E. The word "lot" includes the words "plot" or "parcel".
- F. The word "building" includes the word "structure".
- G. The word "shall" is always mandatory and not merely directory.
- H. The words "located", "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be located, used or occupied".

- I. The word "dwelling" shall mean a structure or portion thereof which is used exclusively for human habitation.

Section 7. Severability.

It is hereby declared to be the intention of the Board that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Article is declared unconstitutional or invalid by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Article, since the same would have been enacted by the Board of Commissioners without the incorporation in this Ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 8. Enforcement.

- A. Any person who violates this Article shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with Section 14-4(a) of the North Carolina General Statues.
- B. This Article may be enforced against any person who is in violation by an appropriate equitable remedy issuing from a court of competent jurisdiction as provided for in Section 153A-123(d) of the North Carolina General Statues.
- C. This Article may be enforced against any person who is in violation by injunction and order of abatement as provided for in Section 153A-123(e) of the North Carolina General Statues against any person who is in violation.
- D. Each day's continuing violation of this Article by any person is a separate and distinct offense.
- E. As used herein "person" shall include:
1. The agent in charge of the building, premises, structure or facility.
  2. The owner of the building, premises, structure or facility when such owner knew or reasonably should have known the nature of the business located therein.
  3. The owner of the business or the manager of the business.

Section 9. Enactment.

The ordinance establishing the provisions of this Article was adopted and effective the 21st day of February, 2000 upon motion by Commissioner Spruell R. Britt, seconded by Commissioner A. Dial Gray and passed unanimously and recorded in the Minutes of the said meeting Book 25, Pages 514-520 amending the original ordinance of October 3, 1977.

**PART 2 – DEALERS OF PRECIOUS METALS**

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Section 1. Purpose.

To protect the public health, safety and welfare by regulating the trade in precious metals within Columbus County.

Section 2. Definitions.

*Precious metals* mean gold, silver or platinum.

*Precious metal dealer* means a person, partnership, corporation, association, or firm engaged in the business of purchasing precious metals from non-commercial sources; however, precious metal dealer does not include a person, partnership, corporation, association or firm engaged exclusively in the business of purchasing coins or currency.

Section 3. Permit Required.

- A. No person, partnership, corporation, association or firm shall operate a precious metal dealership as herein defined unless such person, partnership, corporation, association or firm shall have first applied for and received the permit provided by this ordinance.
  
- B. Every application for the permit prescribed herein shall be upon a form approved by the County Tax Collector and shall be filed with the Tax Collector. Every such application shall be made under oath and shall contain the following information:
  - 1. If the applicant is a person, the name, fingerprints, photograph, date of birth, social security number, and address of such person. If applicant is a partnership, corporation, association or firm, the name, fingerprints, photograph, date of birth, social security number, address and residence of all persons having any legal or beneficial interest in such applicant.
  - 2. The address of the premises where the precious metal dealership shall be located;

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3. A complete statement of all convictions and arrests of any person(s) whose name(s) is (are) required to be given in paragraph (b) (1) above, for any felony or any crime involving fraud, theft or the receiving or processing of stolen property.
  4. A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant;
  5. A list of the names, addresses, home telephone numbers, date, of birth, social security number, and other places of employment of all employees of the applicant; said list shall be updated whenever new employees are hired;
  6. A photographic copy of a receipt from the North Carolina Department of Agriculture Consumer Standards Division showing that all scales and weights to be used by the precious metal dealer in the establishment are approved.
- C. The Tax Collector shall transmit a copy of the application to the Sheriff's Department for an investigative report.
- D. An Application in proper form, accompanied by all reports required by this section, shall be submitted to the Columbus County Chairman of the Board of County Commissioners who shall approve it if it is determined that:
1. The application contains no misstatement of fact;
  2. The applicant, or any person having any legal or beneficial ownership interest in the applicant, has not been convicted of a felony or of any crime involving fraud, theft or the receiving or possessing of stolen property within the five (5) years immediately preceding the date of the application;
  3. The business premise conforms to all requirements of applicable zoning and building codes; and
  4. The business, by reason of the manner or place in which it is to be conducted, will not constitute a nuisance or in any other manner amount to a menace to good order, the public health, safety, or morals.
- E. Upon approval of the application, and upon receipt of Fifty Dollars (\$50.00) processing fee, the Tax Collector shall issue a permit to the applicant. A separate permit must be purchased for and prominently displayed at each location where the precious metal dealer engages in the business of purchasing precious metals.
- F. Any applicant whose application for a permit is denied by the County Chairman of the Board of County Commissioners pursuant to subsection (d) of this section or revoked by the County Chairman of the Board of County Commissioners pursuant to Section 6 of this Ordinance may appeal from such decision to the County Commissioners. An appeal is taken by filing written notice of such appeal with the Clerk to the Board of County Commissioners within ten (10) days following the date of the decision. The Board of County Commissioners shall set the

appeal for hearing in the manner provided by Section 7 of this Ordinance. The Board of County Commissioners may affirm, modify or reverse the County Chairman's decision.

Section 4. Records to be Kept and Notice.

- A. Every precious metal dealership shall keep, for at least three (3) years a tightly bound book (not loose leaf) with sequentially numbered pages, in which shall be legibly written, at the time of the purchase, an account and description of the item or items purchased or traded including, if available:
1. manufacturer's name; style; model number; serial number; engraved initials, number or other identifying marks;
  2. the amount of money paid for the item or items date of-purchase; and
  3. the name and-address of the person selling the items, including the source or identification of the seller.
- B. Within twenty-four (24) hours of a purchase, the dealer of precious metals must place in the US Mail, addressed to the Sheriff's Department of Columbus County, a memorandum of the information required in subsection A of this section.
- C. The books and records required by this section shall be kept at all times on the premises of the precious metal dealer's business and shall be made available during regular business hours, to any law enforcement officer. Said books and records must be kept for a period of three (3) years.

Section 5. Purchase of Precious Metals.

Prior to the purchase of precious metals, the dealer shall require the seller to present one form of government-issued identification containing age, address, and photographic likeness of the seller, such as a driver's license. Dealers shall make no purchase from a person who is less than eighteen (18) years of age. No dealer shall transfer possession of any purchased precious metal or materially alter the appearance or form of the metal to make identification by a prior owner substantially more difficult until at least five (5) days, excluding Saturday, Sunday, and holidays, have elapsed from the date of purchase. Precious metal dealers shall conspicuously post in their places of business the following conversion table on a sign, the letters of which are at least three (3) inches high:

**“one troy ounce equals 20 pennyweights**

**one troy ounce equals 31.1 grams**

**one gram equals 0.643 pennyweight”**

Section 6. Permit Revocation.

- A. A permit issued pursuant to section 3 may be revoked by the County Commissioners without refund of any part of the fee paid if the Board determines that:
1. The permittee has violated any provision of this Ordinance;
  2. The permittee has violated any zoning or building ordinance;
  3. The business is conducted or allowed to be conducted in a manner constituting a public nuisance;
  4. The permittee, or the legal or beneficial owner of any interest in the permittee, is convicted of any felony or crime involving fraud, theft or the receiving or possessing of stolen property.
- B. A permit issued pursuant to this section is void if the permittee moves or ceases operating a precious metal dealership at the location required to be stated in the application for permit pursuant to this Ordinance.

Section 7. Notice and Hearing.

Before the Board of County Commissioners revokes a permit issued pursuant to this Ordinance, or if an appeal is taken pursuant to Section 3 F, the Board shall cause a written notice to be sent by certified mail to the permittee affected or the applicant affected at the address stated in the permit or application. This notice shall advise the affected party of right to appear before the Board, with or without legal counsel, at a stated time and place, for the purpose of presenting any evidence relevant to such relocation or denial, and for the purpose of hearing all evidence submitted and examining or cross examining any person providing such evidence.

Section 8. Penalties.

Violation of any of the provisions of this Ordinance shall constitute a misdemeanor and, upon conviction, a violator shall be punished by a fine of not more than Fifty Dollars (\$50.00) or imprisoned for not more than thirty (30) days. Each and every violation shall constitute a separate and distinct offense.

Section 9. Enactment and Effective Date.

This Ordinance shall be effective February 15, 1981, and shall continue in force until such date as a state statute or regulation dealing with the same subject shall be enacted and in effect. At that time provisions of this Ordinance shall expire. The above Ordinance was passed by the Board of Commissioners on February 2, 1981, and action is recorded in minutes of that Board meeting.

**PART 3 – NON-EMERGENCY AMBULANCE FRANCHISE**

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Section 1. Applicability.

This Ordinance is not to be construed to govern Emergency Ambulance Service. Columbus County contracts with County rescue squads for emergency services. This Ordinance applies to and for a franchise for any non-emergency ambulance service that may wish to operate in the geographical confines of Columbus County. These non-emergency ambulance transport providers shall operate by franchise. This franchise shall be granted by the Columbus County Board of Commissioners.

Section 2. Definitions.

Unless the context otherwise requires, the following definitions shall apply in the interpretation and enforcement of this Ordinance.

***Ambulance:*** Any privately or publicly owned motor vehicle, aircraft or vessel that is specifically designed, construed or modified and equipped and is intended to be used for and is maintained or operated for the transportation on any thoroughfare of Columbus County of persons who are sick, injured, incapacitated or helpless and meeting the North Carolina Administration Code TIO:030.0901-1004.

**Ambulance Service:** A public or privately owned enterprise that is engaged in the transportation of patient to non-emergency and/or emergency medical facilities.

**EMS Personnel:** The individual who is responsible for the operation of an ambulance for the transportation of a patient or patients.

**Franchise:** A permit issued by the County to a person for the operation of a non-emergency ambulance service.

**Franchisee:** Any person having been issued a franchise by the County for the operation of a non-emergency ambulance service.

**Non-Emergency Transportation Services:** The operation of an ambulance or rescue vehicle for any purpose other than an emergency.

**Operator:** A person in actual physical control of an ambulance or rescue vehicle which is in motion or which has the engine running.

**Owner:** Any person or entity who owns and operates an ambulance service.

**Patient:** An individual who is sick, injured, wounded or otherwise incapacitated or helpless.

### Section 3. Franchise Required.

- A. No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of non-emergency transportation of patients within the County of Columbus unless the person holds a valid permit for each ambulance used in such business or service issued by the North Carolina Department of Human Resources, Office of Emergency Medical Services, and has been granted a franchise for the operation of such business or service by the County pursuant to this Ordinance.
- B. No person shall drive an ambulance, attend a patient in one, or permit one to be operated when transporting a patient within the County of Columbus unless he/she holds a currently valid certificate as a medical responder, emergency medical technician, EMT-Intermediate, or EMT-Paramedic issued by the North Carolina Division of Health Service Regulation, Office of Emergency Medical Services under the United States Department of Health and Human Services.
- C. All persons, either as owners, agent or otherwise, shall establish an office in Columbus County with proper ambulances and equipment for the purpose of operating a non-emergency ambulance service.

- D. No franchise shall be required for and the provision of this division shall not apply to the following entities. However, such entities must comply with all applicable state and local laws relating to health, sanitation, safety, equipment, ambulance design and all other laws and ordinances.
1. Any entity rendering assistance to a franchised ambulance service in the case of a major catastrophe or emergency with which the ambulance services franchised by Columbus County are insufficient or unable to cope; or
  2. Any entity operated from a location or headquarters outside of Columbus County in order to transport patients who are picked up beyond the limits of Columbus County, but no such entity shall be used to pick up patients within Columbus County for transporting to locations within Columbus County unless it is rendering assistance as referred to in Subsection 1 above.
  3. Law enforcement personnel.
  4. All municipalities within Columbus County.
- E. Any ambulance service operated from a location or headquarters inside the County for the purpose of responding to on-site industrial accidents which may result in the non-emergency transport of a patient to an emergency medical facility within the County.

Section 4. Application for Ambulance Franchise.

Application for a franchise to operate ambulances in the County of Columbus shall be made by the ambulance provider upon such forms as may be prepared or prescribed by the County and shall contain:

- A. The name and address of the ambulance provider and of the owner of the ambulance(s).
- B. The trade or other businesses, corporations or agencies, if any, under which the applicant does business, along with a certified copy of an assumed name certificate stating such name or articles of incorporation stating such name.
- C. A resume of the training and experience of the applicant in the transportation and care of patients.
- D. A full description of the type and level of service to be provided, including the location of the place or places from which it is intended to operate, the manner in which the public will be able to obtain assistance and how the vehicles will be dispatched.
- E. A description of the applicant's capability to provide twenty-four (24) hour coverage, seven (7) days per week for the district covered for which the franchise was applied.

- F. Any information the County shall deem reasonably necessary for a fair determination of the capability of the applicant to provide ambulance services in the County of Columbus in accordance with the requirements of State laws and the provisions of this regulation.

Section 5. Granting of Franchise.

- A. Prior to accepting applications for the operation of an ambulance service, the Board of Commissioners may designate specific service areas as franchise districts. Said districts will be established using criteria that includes geographic size, road access, the location of existing medical transportation services, population and response time or no geographical districts may be designated with the franchise being inclusive of all of Columbus County. The County shall have the complete authority to delegate service areas at their discretion.
- B. Upon receipt of an application for a franchise, the County shall schedule a time and place for hearing the applicant. Within thirty (30) days after hearing, the County shall cause such investigation as it may deem necessary to be made of the applicant and his/her proposed operations.
- C. A franchise may be granted if the County finds that:
  - 1. The applicant shows a reasonable effort to meet state standards and standards outlined in the franchise ordinance for non-emergency services.
  - 2. The proposed service will fit within the existing service so as not to adversely affect the level of service or operations of other franchisees to render service.
  - 3. 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.

Section 6. Term of Franchise.

- A. The County may issue a franchise hereunder to an ambulance provider, to be valid for a term to be determined by the County, provided that either party as its option, may terminate the franchise upon sixty (60) days prior written notice to the other party. After a notice of service termination is given, the ambulance provider may reapply for a franchise if continued service is desired.
- B. Upon suspension, revocation or termination of a franchise granted hereunder, such franchised ambulance service immediately shall cease operations. Upon suspension, revocation or termination of a driver's license, the franchisee shall immediately cause such person to cease to drive an ambulance with an ambulance service. Upon suspension, revocation or termination of an EMS certification, the franchisee shall immediately cause such person to cease to provide medical care in conjunction with an ambulance service.

- C. Each franchised ambulance service shall comply, at all times, with the requirements of this Ordinance, the franchise granted hereunder, and all applicable State and local laws relating to health, sanitation, safety, equipment and ambulance design and all other laws and ordinances.
- D. Prior approval of the County shall be required where ownership or control of more than ten (10%) percent of the right of control of franchisee is acquired by a person or group of persons acting in concert, none of whom own or control ten (10%) percent or more of such right of control, singularly or collectively, at the date of the franchise. By its acceptance of the franchise, the franchisee specifically agrees that any such acquisition occurring without prior approval of the County shall constitute a violation of the franchise by the franchisee and shall be cause for termination at the option of the County.
- E. Any change of ownership of a franchised ambulance service without the approval of the County shall terminate the franchise and shall require a new application and a new franchise and conformance with all the requirements of this Ordinance as upon original franchising.
- F. No franchise may be sold, assigned, mortgaged or otherwise transferred without the approval of the County; and a finding of conformance with all requirements of this Ordinance as upon original franchising. Each franchised ambulance service, its equipment and the premises designated in the application and all records relating to its maintenance and operation, as such, shall be open to inspection by the State, the County or their designated representatives.

Section 7. Standards for Drivers and EMS Personnel.

Drivers and EMS personnel are subject to standards developed by the North Carolina Medical Care Commission for certification pursuant to Article 7, Chapter 131E and Article 56, Chapter 143 of the General Statutes of North Carolina and are incorporated into this Ordinance.

Section 8. Standards for Vehicles and Equipment.

Vehicles and equipment are subject to standards developed by the North Carolina Medical Care Commission pursuant to Article 7, Chapter 131E and Article 56, Chapter 143 of the General Statutes of North Carolina and are incorporated into this Ordinance.

Section 9. Standards for Communications.

- A. Each ambulance vehicle shall be equipped with an operational two-way radio capable of establishing good quality voice communications from within the geographic confines of Columbus County to the County hospital and all emergency agencies in Columbus County.
- B. Each ambulance provider will maintain current Federal Communication Commission licenses. All licenses will be available for inspections at all times per FCC regulations.

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- C. Each fixed base of operations must have at least one (1) open telephone line. Telephone numbers must be registered with each emergency service agency, communication center and law enforcement agencies in Columbus County.

### Section 10. Insurance.

No ambulance franchise shall be issued under this Ordinance, nor shall such franchise be valid after issuance, nor shall any ambulance be operated in the County of Columbus unless the franchisee has, at all times, in force and effect, insurance coverage, issued by an insurance company licensed to do business in the State of North Carolina, for each and every ambulance owned and/or operated by or for the ambulance service providing for the payment of damages:

- A. In the sum of five hundred thousand and 00/100 (\$500,000.00) dollars for injury to or death of individuals in accidents resulting from any cause for which the owner of said vehicle would be liable on account of liability imposed on him/her by law, regardless of whether the ambulance was being driven by the owner or his/her agency;
- B. In the sum of fifty thousand and 00/100 (\$50,000.00) dollars for the loss of or damage to the property of another, including personal property, under like circumstances, in sums as may be required by the State or as approved by the County of Columbus;
- C. Each ambulance provider shall have Worker's Compensation Insurance at all times; and
- D. Columbus County will not be held responsible for any negligent or wrongful or malfeasance on civil claims or judgment that may be filed against the non-emergency transport provider.

### Section 11. Records.

- A. Trip Records: Records that shall be designed as to provide the patient with a copy thereof containing all required information. A copy of the Trip Record may serve as a receipt for any charges paid.
- B. Daily Report Logs: Shall be maintained for the purpose of identifying more than one (1) person transported in any one (1) day.
- C. Annual Reports: Will be provided in written form to the Board of Columbus County Commissioners. This report will identify the number of transports made during the ambulance provider's fiscal year and any other information pertinent to the non-emergency operations. This report will be due thirty (30) days after the close of the past fiscal year.

### Section 12. Enforcement.

The Columbus County Emergency Services Office shall be the enforcing agency for regulations contained in this Ordinance. The Columbus County Emergency Services Office will:

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- A. Receive all franchise proposals from potential providers;
- B. Study each proposal for conformance to this Ordinance;
- C. Present the completed application to the Board of County Commissioners for its approval or disapproval of a franchise;
- D. Inspect the premises, vehicles, equipment and personnel of the franchisee to assure compliance to this Ordinance; and
- E. Recommend to the Board of County Commissioners the temporary or permanent suspension of a franchise in the event of non-compliance with the terms of this Ordinance.

### Section 13. Violations.

Violation of this Ordinance or the terms of any franchise granted hereunder shall be a misdemeanor as provided by North Carolina General Statutes, Section 14-4. Each such violation also shall subject the offender (franchisee) to a civil penalty in the amount of one hundred and 00/100 (\$100.00) dollars for each separate breach of the franchise or violation of this division. This civil penalty must be paid within ten (10) days after the hearing, as provided in Section 153A-123(c) above on said citation, has been held. If not so paid, such penalty may be recovered by the County as provided by North Carolina General Statutes, Section 1 53A-123(c). If the civil penalty is not paid within the ten (10) days as provided for above, the County may suspend or revoke the franchise.

### Section 14. Compensation.

- A. It will be the responsibility of the franchise holder/non-emergency ambulance provider to bill, charge or seek compensation for their services.
- B. The Columbus County Board of Commissioners will not be responsible for any expenses or cost associated with the operation of the franchised non-emergency ambulance transport service.
- C. Columbus County will provide no monetary inducements, stipends or payment to any non-emergency ambulance transport service.

### Section 15. Enactment.

Amended and adopted this the 17th day of August, 2009 by the Columbus County Board of Commissioners.