

**ORDINANCE NUMBER 2009-05**

**AN ORDINANCE AMENDING ORDINANCE 2005-22 TO ALLOW THE  
FRANCHISED EMS/AMBULANCE AND EMERGENCY AND NON-  
EMERGENCY SERVICE PROVIDER TO EXTEND ITS SERVICES INTO  
OTHER AREAS UPON REQUEST OF THE GOVERNING BODIES OF THOSE  
AREAS AND PROVIDING FOR INTERLOCAL GOVERNMENTAL  
AGREEMENTS FOR EXTENSION SUCH SERVICES AND PROVIDING  
PENALTIES FOR VIOLATIONS OF THIS ORDINANCE  
AND DECLARING AN EMERGENCY**

**WHEREAS**, the City has experienced violations of the exclusive nature of the franchise awarded to Vital Link, Inc and attempts to enforce the ordinance revealed possible ambiguities in the language of the Arkansas Municipal Ambulance Licensing Act at ACA 14-266-105(a)(5); and,

**WHEREAS**, the City has brought a declaratory judgment action seeking to clarify the meaning of that law; and,

**WHEREAS**, Van Buren County is a named Defendant in that declaratory judgment action; and,

**WHEREAS**, the City of Clinton and the County of Van Buren have engaged in discussions on means and methods of resolving their differences; and,

**WHEREAS**, the City of Clinton and the County of Van Buren have agreed to and have enter into an Interlocal Cooperation Agreement pursuant to authority granted in ACA § 14-266-105(a)(4) and ACA §§25-20-101 to 108 that would select and establish a new exclusive franchise service provider to provide the highest quality EMS/Ambulance and emergency and non-emergency service to rural Van Buren County and the City of Clinton; and,

**WHEREAS**, the City of Clinton and the County of Van Buren agreed upon the specifications for the new provider, and the rules and parameters regarding the exercise of the franchise authority by the City of Clinton and the participation by the County of Van Buren, and all of the terms for an Interlocal Cooperation Agreement; and,

**WHEREAS**, the County of Van Buren and the City of Clinton have published the EMS/Ambulance and emergency and non-emergency service specifications and solicited and received bids from two prospective ALS level ambulance service providers; and,

**WHEREAS**, one bidder was clearly more qualified, better equipped and staffed and was selected by the joint action of the Van Buren County Judge and the Mayor of the

City of Clinton; and,

**WHEREAS**, the County of Van Buren by its County Judge has requested that the City of Clinton extend its exclusive franchise services into all of Van Buren County:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLINTON, ARKANSAS, THAT CLINTON CITY ORDINANCE 2005-22 BE AND THE SAME HEREBY IS AMENDED AS FOLLOWS:**

**Section 1.** That from and after the effective date of this ordinance the business of transporting persons within the coverage area as defined below by motor ambulance, whether by the providing of emergency medical services or the providing of medical transfer services including the operation of a motor ambulance, be and the same is hereby declared to be an essential, vital and necessary public utility service subject to regulations and franchising by the City of Clinton (hereinafter sometimes referred to as "the franchisor"). After said date, any permit, license, privilege or certification heretofore granted or suffered to allow by any person, firm or corporation, whether non-profit or any business for profit, to operate an EMS/ ambulance service within said coverage area shall and hereby is permanently revoked and the ownership and operation thereof shall be unlawful unless all such persons, firms, or corporations shall first comply with the provisions of this ordinance as hereinafter set forth and the Arkansas Municipal Ambulance Licensing Act, Sections 14-266-101 to 110. This ordinance does not apply within the areas of Fairfield Bay, Scotland and Chimes and is not intended to affect or interfere with the ambulance services presently in operation within and for the areas of Fairfield Bay, Scotland or Chimes unless the governing bodies of such areas request services from the franchisee herein created as provided for under A.C.A. § 14-266-105(4), or pursuant to an emergency plan or mutual aid agreement with the new franchisee as herein created and approved by franchisor.

**Section 2.** Definitions: The following words and phrases as used in this ordinance shall, for the purposes of this ordinance, have the following meaning:

(a) "Ambulance" means any motor vehicle that is constructed or equipped for and intended to be used for the transportation of a person because of a medical reason including but not limited to an injury, illness, disability or other medically related reason.

(b) "Ambulance Business" means any for profit or non-profit business entity or person engaged in the business of the transportation of persons for medical reasons.

(c) "Operation", an operation means the receiving, picking up or embarking from within the coverage area of any sick or injured person, or for other reason indicating the need to obtain emergency or non-emergency medical treatment, or upon conclusion of such care, for transportation or conveyance to any point wherever located including any

and all residential domiciles, or health care, or living facilities.

(d) "Person" means individuals either male or female, partnerships(s), firms, corporations (whether for profit or non-profit) and associations of every kind, and their agents, servants or employees.

(e) "Ambulance operator" shall mean any person or board who, as owner, agent, or otherwise, furnishes or operates, advertises or otherwise professes to be engaged in the business of furnishing or operating ambulances in providing the ancillary and necessary emergency medical services or medical transfer services.

(f) "Coverage area" shall mean all of rural Van Buren County and all areas within the city limits of the City of Clinton. This coverage area is inclusive of those areas currently operating basic life support ambulance services within the county at Chimes, Fairfield Bay and Scotland but only when requested to be included by the governing bodies of such areas, if applicable, or by those services. Notwithstanding anything in this Ordinance to the contrary, the franchisee shall provide advanced life support response in those areas when requested to do so. This area shall also mean any other area that requests the services of the franchisee be extended thereto by request of the governing body or bodies of such areas.

(g) "Originating" means the geographical point of a first patient contact for service requested by any means of communication from any location where the call seeks a first contact or patient pick-up that is within the coverage area. Thus, any communication from any location that requires EMS/ambulance and/or emergency and/ nonemergency medical service to proceed to or from any point within the coverage area to make patient contact originates from within that coverage area. The coverage area shall at all times be at a minimum all that area within the city limits of the City of Clinton.

**Section 3:** No person shall locate within or engage in the ambulance business within the coverage area without first obtaining a franchise s required under this ordinance, or pursuant to an agreement as provided in Section 26 below. A Franchise to operate an exclusive ambulance business shall be issued for a period not to exceed five (5) years. Renewal of any franchise granted hereunder, upon expiration or termination for any reason, shall require conformance with specifications as are promulgated by the franchisor and the requirements of this ordinance and state law applicable to EMS/Ambulance and emergency and non-emergency medical services . No person, firm or business entity of any kind may offer or provide EMS/ambulance or emergency or non-emergency medical services of any kind that originates within the coverage area without having first obtained a franchise as herein provided, or pursuant to Section 26, below.

**Section 4.** The City Council may grant an exclusive franchise for the privilege of

using the streets, alleys, public ways and public grounds of City of Clinton and any extended area(s) for the purposes of operating an ambulance business for the citizens, inhabitants and all other persons within coverage area, which said franchise shall require that said ambulance service, including emergency ambulance service, must be maintained continuously during all hours..

**Section 5:** Said franchise shall be granted only upon written application therefor filed with the City Clerk of the City of Clinton, and the Van Buren County Judge. And, further, shall only be granted after the City Council of the City of Clinton, Arkansas, shall determine that the applicant has met or exceeded the specifications for eligibility of award of the exclusive franchise, To determine such public convenience and necessity, the City Council and the County Judge may hold such hearings and in such manner as they deem necessary.

**Section 6:** Said franchise may be granted upon such terms as said Clinton City Council, and if applicable in concert with the Van Buren County Judge, shall determine and such terms shall be included as part of any franchise granted hereunder.

**Section 7.** No franchise shall be granted to any person who is not the actual bona fide owner, or bona fide operator, thereof and who is not fully responsible for the operations of said business.

**Section 8:** No franchise shall be granted to any person who does not provide bona fide advanced life support (ALS) or paramedic service licensed by the Arkansas Department of Health as part of all of its ambulance business on a 24/7 basis, and, further, all emergency transportation shall be performed with a certified paramedic present or as otherwise called for by appropriate medical protocol. Further, as appropriate and based on medical protocols, all non-emergency transportation is provided by either an ALS ambulance, intermediate ambulance or Basic ambulance with either a paramedic, EMT-Intermediate, or EMT-Basic present respectively.

**Section 9:** No franchise shall be granted to any person whose ambulance operation that is not located within the City of Clinton, Arkansas, or at a location approved by the Clinton City Council including crew quarters and appropriate facilities for ambulances, medical supplies, and medical equipment.

**Section 10:** In granting a franchise the City Council shall consider as the utmost criteria the quality of services to be provided to the citizens to be served. Included in the consideration of quality shall be the quality of the equipment; the level of service to be given, response time standards, the training and education of staff, the systems in place for quality review and improvement of patient care, the level of involvement of the Medical Director, the quality and number of certified paramedics and any other necessary

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personnel to be provided, the overall staffing to be provided, the personnel practices in effect, the preparedness and participation in disaster or mass casualty response and evidence of quality so that accredited ambulance businesses shall be given a preference.

Section 11: No permit issued under the terms of this ordinance shall be sold, transferred, assigned, leased or otherwise disposed of without the written approval of the franchisor.

Section 12: Before the Clinton City Council shall grant any franchise hereunder, the owner or operator of said business applying for same shall deposit with the City Clerk and, if applicable the Van Buren County Clerk, and keep in effect at all times, policies insurance issued by licensed and responsible insurance company or companies duly authorized to transact such business in the State of Arkansas, providing professional liability insurance, workers compensation insurance, comprehensive general liability and motor vehicle insurance. The said insurance shall provide coverage for its employees, agents, motor vehicle operators and any and all persons acting under the control and direction of said franchisee against liability up to and including One Million Dollars (\$1,000,000.00) for personal injuries or death as to one occurrence and up to and including Two Million Dollars (\$2,000,000.00) on account of any accident resulting in personal injuries or death on more than one occurrence. The franchisee shall provide certificates of coverage that identifies the franchisor as an additional named insured.

Section 13: The person issued a franchise hereunder shall pay to the City of Clinton, Arkansas, and to the governing body or bodies of any extended areas, an annual license or permit fee of One Hundred Dollars (\$100.00) per year, which shall be paid at the time of the granting of said franchise or extension of services to cover administrative costs. This fee shall be due on the same date of each following year during the term of said franchise, provided, however, that no franchise shall be terminated for failure to pay a fee unless the franchisor issues notice of a failure to pay not less than ten (10) days in advance of termination.

Section 14: Any person desiring to obtain a franchise to operate an EMS/ambulance and emergency and non-emergency medical service business shall make application therefor, in a form that clearly demonstrates compliance with all sections of the required specifications, and of this ordinance. Each application shall be accompanied by a certificates of insurance or copies of the policies of insurance required by this ordinance.

Section 15: A franchise may be revoked by the City Council upon the following grounds:

- (a) The franchise holder knowingly and after written notice from the city failed to

operate a business in accordance with the provisions of this ordinance and/or any and all applicable state or federal laws, regulations, requirements, or accreditation standards applicable to the emergency medical services or ambulance business or operation including the lack of certified paramedics as required herein.

(b) The franchise holder shall abandon its operations of the ambulance business for a period of one (1) or more days. Acts of God, labor disputes, and other acts beyond the control of the franchise holder which cause abandonment or limitation of service shall not be considered abandonment with the meaning of this section in which case the backup emergency plan provided by the franchise holder shall be implemented.

[c] The franchise holder has failed to render satisfactory service or has engaged in unlawful or inappropriate conduct.

(d) The franchise holder fails to comply with any provisions of the franchise ordinance.

The City Council or its designee shall hold a hearing after ten (10) days notice to the franchise holder before any suspension or revocation shall become effective.

Section 16: The ambulance business holding the franchise shall, before such franchise is issued, extend a written guarantee to the City of Clinton, Arkansas of uninterrupted ambulance service, except that by giving ninety (90) days notice to the city, such franchisee shall be authorized to discontinue its own, or the service of any subordinate service appointed pursuant to Section 26 below, service without penalty.

Section 17: Upon making application for a franchise, each ambulance operator shall submit a list of equipment to be carried in each ambulance. This list shall be subject to approval of the franchisor and the State of Arkansas at the time that the applicant's license is before the franchisor for consideration. The list shall be subject to review and approval annually and at the time of the renewal of the franchise and shall be filed with the offices of the franchisor's clerk. Each ambulance operated by the franchisee must be continually equipped and staffed according to the bidding specifications and the regulations and requirements of the Arkansas Department of Health.

Section 18: An ambulance carrying a patient affected with contagious or infectious disease and the services therefore shall operate in accordance with the Federal OSHA requirements, Arkansas Department of Health, and Center for Disease Control standards in handling patients with contagious and infectious diseases. In all such cases a report shall also be made to the franchisor so that appropriate steps may be taken for public health purposes.

Section 19: The ambulance business or operations shall also have and maintain a written set of policies and procedures which will include personnel, operational and

medical policies and procedures, and such other requirements as may be required by law, rule or regulation. A copy of this or these manuals shall be made available for inspection upon request by the franchisor or its authorized representative. The ambulance business or operation shall thereafter operate in accordance with its policies and procedures manual or manuals.

Section 20. Any person who shall fail to comply with any provision of this ordinance, or who shall violate any of the provisions of this ordinance, or who shall assist, aid, abet or facilitate any other person to violate any provision of this ordinance shall be guilty of misdemeanor and/or a violation, and upon conviction shall be fined not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (1,000.00) per offense.

Section 21: The provisions of this ordinance shall not apply to any person engaged in rendering an ambulance operation whose place of business, operation, and vehicles are located in another county and whose ambulances transport persons or patients in or through the coverage area so long as this transportation or business originates from a location outside of the coverage area,

Section 22. The standards, rules, regulations, and requirements established by the State of Arkansas concerning emergency medical services, emergency medical technicians, paramedics, emergency and non-emergency ambulances, and ambulance companies as set forth by the Arkansas Department of Health Office of Emergency Medical Services and Trauma Systems are hereby incorporated with this ordinance by reference. These standards, rules, regulations and requirements established by the State of Arkansas are the minimum standards that are acceptable and no standard element will be acceptable and will be cause for termination of the right to operate anywhere within the coverage area or the City of Clinton.

Section 23. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 24. The City Council of Clinton, Arkansas shall have, possess, and exercise all of those powers that could be granted to an emergency medical services board and may perform those responsibilities or may delegate certain of said powers to the board of directors of the ambulance business if a nonprofit organization operated for the public benefit according to Chapter 33. If the City Council decides to delegate such powers to a board of directors, then the delegation will only occur after it has been provided with a means of insuring that the franchisor shall have participation on said board.

Section 25. The City of Clinton, Arkansas is to required to notify Van Buren

County Emergency Communications Center "911" calls or referrals originating from within the coverage area be sent directly to the franchisee so that a person calling "911" will have calls for service transferred directly to said franchisee, ambulance business or operator.

**Section 26.** Within sixty (60) days of the award of the joint, exclusive franchise as provided herein, the franchisee shall present to the Mayor of the City of Clinton and to the governing body of any extended area a written plan for the following:

A. Creation of a system or plan to obtain support services from other identified EMS/Ambulance and emergency and non-emergency medical services entities to assure adequate and continuous coverage during emergencies, disasters, large public events and other urgent needs.

B. All such plans, mutual aid agreements or other forms of contracts shall be with properly licensed and certified EMS/Ambulance services.

C. Upon approval of the emergency back up plans and proposed contracts presented by the franchisee, all rights, privileges and benefits granted to the franchisee shall be extended to the backup entities selected by the franchisee but only to the extent and for the duration of the emergency or need for such services. All such plans, agreements, and contract services shall serve at the pleasure of the franchisee.

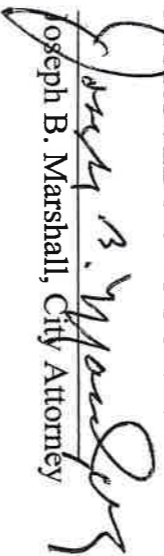
**Section 27.** The various provisions and parts of this ordinance are hereby declared to be severable, and, if any section or part of the section, or any provision or part of a provision herein, is declared unconstitutional, inappropriate, or invalid by any court of competent jurisdiction, such holding shall not invalidate or affect the remainder of this ordinance.

**Section 28.** It having been found and determined that inadequate emergency ambulance service within the coverage area, will result in a condition menacing to the public peace, health and safety and therefore, an emergency exists and this ordinance being necessary for the immediate preservation of said public peace, health and safety, same shall be in full force and effect from and after its passage and approval.

PASSED: March 24, 2009



APPROVED AS TO FORM:

  
Joseph B. Marshall, City Attorney

VAN BUREN COUNTY  
**DEMOCRAT**

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Ordinance No. 2009-05

pending in the \_\_\_\_\_ Court, in said County and at the dates of the several publications of said advertisement stated above, and that during said periods and at said dates said newspaper was printed and has a bona fide circulation in said County, and had a bona fide circulation therein for the period of more than one month before the date of the first publication of said advertisement, and that said advertisement was published in the regular weekly issue of said newspaper as stated above.

Subscribed and sworn to before me this 17<sup>th</sup> day of April 20 09

Notary Public Monica Brown  
My commission expires 11-20-15



See  
attached