

TOWN EMERGENCIES

Statutory reference:

Authority to enact ordinances to deal with states of emergency, see G.S. 14-288.12

Counties, see G.S. Chapter 153A-1 et seq.

State Emergency Management Act of 1977, see G.S. Chapter 166A

GENERAL PROVISIONS

§36.01 STATE OF EMERGENCY; AUTHORITY OF MAYOR.

- (A) A state of emergency shall be deemed to exist whenever during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety, or property, or whenever the occurrence of any such condition is imminent.
- (B) In the event of an existing or threatened state of emergency endangering the lives, safety, health, and welfare of the people within the town or any part thereof, or threatening damages to or destruction of property, the Mayor of the town is hereby authorized and empowered under G.S. §§14-288.12 and 166A-8 to issue a public proclamation declaring to all persons the existence of a state of emergency, and, in order to more effectively protect the lives and property of people within the town, to place in effect any or all of the restrictions hereinafter authorized.

- (C) The Mayor is hereby empowered to limit by the proclamation the application of all or any part of these restrictions to any area specifically designated or described within the town and to specific hours of the day or night; and to exempt from all or any part of these restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firefighters, and other public employees; rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; authorized and on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of people within the town.

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.02 PROCLAMATION IMPOSING PROHIBITIONS AND RESTRICTIONS.

- (A) The Mayor of the town by proclamation may impose the prohibitions and restrictions specified in §§36.20 through 36.25 of this code of ordinances in the manner described in those sections. The Mayor may impose as many of those specified prohibitions and restrictions as he or she finds are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The Mayor shall recite his or her findings in the proclamation.

(B) The proclamation shall be in writings The Mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the County Courthouse and in public places within the town. The Mayor shall as soon as possible send reports of the substance of the proclamation to the Chairperson of the County Board of Commissioners, or designee; and to the mass communications media which serves the affected area.

(C) The Mayor shall retain the text of the proclamation and furnish upon request certified copies of it.

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.03 REMOVAL OF PROHIBITIONS AND RESTRICTIONS.

The Mayor shall by proclamation terminate the entire declaration of emergency or remove any of the prohibitions and restrictions when the emergency no longer requires them, or when directed to do so by the Town Board.

(Ord. 19, passed 1-9-89)

§36.04 SUPERSEDING AND AMENDATORY PROCLAMATIONS.

The Mayor in his or her discretion may invoke the restrictions authorized by this chapter in separate proclamations, and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in §36.02 above.

(Ord. 19, passed 1-9-89)

§36.05 TERMINATION OF PROCLAMATION.

Any proclamation issued under this chapter shall expire five days after its last imposition unless sooner terminated in writing under the same procedures set forth in §36.02 for proclamations.

(Ord. 19, passed 1-9-89)

§36.06 AUTHORITY IN ABSENCE OR DISABILITY OF MAYOR.

In case of the absence or disability of the Mayor, the Mayor Pro Tem, or other person as may be designated by the Town Board, shall have and exercise all of the powers herein given the Mayor.

(Ord. 19, passed 1-9-89)

§36.47 TERRITORIAL APPLICATION.

This chapter shall apply only within the corporate limits of the municipality, or within any area over which the municipality has jurisdiction to enact general police power ordinances.

(Ord. 19, passed 1-9-89)

AUTHORIZED PROHIBITIONS AND RESTRICTIONS

§36.20 EVACUATION.

The Mayor may direct and compel the evacuation of all or part of the population of the town; prescribe routes, modes of transportation, and destination in connection with evacuation; and control ingress and egress of a disaster area, the movement of persons within the area, and the occupancy of premises therein. Details of the evacuation may be set forth or amended in a subsequent proclamation which shall be well publicized.

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.21 CURFEW.

(A) (1) The proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area or areas and the period during each 24-hour day to which the curfew applies.

(2) The Mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the Mayor finds necessary for the preservation of the public health, safety, and welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(B) Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the Mayor by proclamation removes the curfew.

(Ord., 19, passed 1-9-89) Penalty, see §36.99

§36.22 RESTRICTIONS ON ALCOHOLIC BEVERAGES.

The proclamation may prohibit the possession or consumption of any alcoholic beverage, including beer, wine, and spirituous liquor other than on one's own premises, and may prohibit the transfer, transportation, sale, or purchase of any alcoholic beverage within the town. The prohibition, if imposed, may apply to transfers of alcoholic beverages by employees of Alcoholic Beverage Control stores as well as by anyone else within the geographical area described.

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.23 RESTRICTIONS ON DANGEROUS WEAPONS AND SUBSTANCES.

(A) (1) The proclamation may prohibit the transportation or possession off one's own premises, or the sale or purchase. of any dangerous weapon or substance.

(2) The Mayor may exempt from some or all of these restrictions classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is necessary to the preservation of the public's health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

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

DANGEROUS WEAPON OR SUBSTANCE

(1) Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device as defined in G.S. §14-288.8(c)(5), gasoline, or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property;

(2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that the instrument or substance will be so used; or

(3) Any part or ingredient in any instrument or substance included above when the circumstances indicate a probability that the part or ingredient will be so used.

(C) If imposed, the restrictions shall apply throughout the jurisdiction of the town or part thereof as designated in the proclamation.

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.24 RESTRICTIONS ON ACCESS TO DESIGNATED AREAS.

(A) The proclamation may prohibit obtaining access or attempting to obtain access to any area designated in the manner described in this section, in violation of any order, clearly posted notice, or barricade indicating that access is denied or restricted.

(B) Areas to which access is denied or restricted shall be designated by the Police Chief and his or her subordinates or other law enforcement officer when directed in the proclamation to do

so by the Mayor. When acting under this authority, law enforcement officers may restrict or deny access to any area, street, highway, or location with the town if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.25 RESTRICTIONS TO MAINTAIN ORDER AND SAFETY.

The proclamation may prohibit or restrict:

- (A) Movements of people in public places;
- (B) The operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate; and
- (C) Other activities or conditions, the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation.

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.99 PENALTY.

- (A) Except as provided in division (B) of this section, any person violating any prohibition or restriction imposed by a proclamation authorized by this chapter shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$50 or imprisonment not exceeding 30 days, as provided by G.S. §14-4.
- (B) A violation of §36.23 of this code shall be punishable as provided in G.S. §14-288.7.

(Ord. 19, passed 1-9-89)

APPENDIX: PROCLAMATION FORMS

(A) Proclamation of a state of emergency.

**TOWN OF COOLEEMEE
PROCLAMATION OF A STATE OF EMERGENCY**

Section 1. Pursuant to Chapter 166A of the General Statutes and Chapter 14, Article 36A of the General Statutes, I have determined that a state of emergency as defined exists in the Town of Cooleemee.

Section 2. I, therefore, proclaim the existence of state of emergency in the Town of Cooleemee.

Section 3. I hereby order all law enforcement officers and employees, and all other emergency management workers subject to my control, to cooperate in the enforcement and implmenetation of the provisions of the town emergency ordinances which are set forth below.

Section 4. **Evacuation.** I have determined that, in the best interest of public safety and protection, it is necessary to evacuate the civilian population from the _____ areas of the Town of Cooleemee. Citizens are free to use any type of transportation, by they are only to use (routes): _____ in leaving the county. Evacuation is to occur as soon as possible. Further proclamation concerning evacuation will be issued as needed.

Section 5. **Curfew.** Unless a member of a law enforcement agency or the emergency management program, every person who is located within the Town of Cooleemee is to be inside a house dwelling from the hours _____ to _____.

Section 6. **No Alcoholic Beverages.** There shall be no sale, consumption, transportation, or possession of alcoholic beverages during the state of emergency in the Town of Cooleemee, except possession or consumption is allowed on a person’s own premises.

Section 7. **No Firearms, Ammunition, or Explosives.** During the state of emergency, there shall be no sales or purchase of any type of firearm or ammunition, or any possession of such items along with any type of explosive off the owner’s own premises.

Section 8. **Restrictions on Access to Areas.** During the state of emergency, there shall be no access or attempting to obtain access to any area which has been barricaded, or otherwise clearly posted indicating that access is denied or restricted by law enforcement officers.

Section 9. **Execution of Emergency Plan.** All civilians and emergency management workers are ordered to comply with the Emergency Operations Plan.

Section 10. This proclamation shall become effective immediately. Proclaimed this the _____ day of _____, 20____, at ____:____ a.m./p.m.

Mayor, Town of Cooleemee

(B) Proclamation terminating a state of emergency.

TOWN OF COOLEEMEE
PROCLAMATION TERMINATING A STATE OF EMERGENCY

Section 1. On _____, at ____:____ a.m./p.m., I determined and proclaimed a local state of emergency for the Town of Cooleemee.

Section 2. On _____, at ____:____ a.m./p.m., I ordered the evacuation of all civilians from the area; imposed a curfew; prohibited the sale, consumption, transportation, or possession of alcoholic beverages; prohibited the sale or purchase of any type of firearm or ammunition, or possession of firearms, ammunition, and explosives; restricted access to areas; and ordered the execution of the Emergency Operations Plan.

Section 3. I have determined that a state of emergency no longer exists in the Town of Cooleemee.

Section 4. I therefore terminate the proclamation of a local state emergency and all of the restrictions and orders therein.

Section 5. This proclamation is effective immediately. Proclaimed this the _____ day of _____, 20____, at ____:____ a.m./p.m.

Mayor, Town of Cooleemee

(Ord. passed 1-9-89)