

MECKLENBURG COUNTY
STATE OF EMERGENCY ORDINANCE
AN ORDINANCE AUTHORIZING
THE DECLARATION OF A STATE OF EMERGENCY
AND THE IMPOSITION OF PROHIBITIONS AND RESTRICTIONS
DURING A STATE OF EMERGENCY

WHEREAS, The North Carolina General Assembly has adopted Article 1A of Chapter 166A of the General Statutes, entitled “North Carolina Emergency Management Act”, which sets forth the authority and responsibility of the Governor, State agencies, and local governments in prevention of, preparation for, response to, and recovery from natural or man-made emergencies; and

WHEREAS, G.S. §166A-19.22, which is part of the North Carolina Emergency Management Act, authorizes counties to declare a state of emergency under conditions and following procedures contained in G.S. §166A-19.22; and

WHEREAS, G.S. §166A-19.31 authorizes counties to enact ordinances to deal with states of emergency; now, therefore be it

RESOLVED by the Board of Commissioners of Mecklenburg County, under the authority of the North Carolina Emergency Management Act, including, but not limited to G.S. §166A-19.22 and G.S. §166A-19.31, that the following Ordinance is hereby adopted.

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ARTICLE ONE: Declaration of State of Emergency; Restrictions Authorized

Section 1. Definitions. The definitions set forth in G.S. 166A-19.3, as they may be amended from time to time, are incorporated herein by reference, including, without limitation, the definition of “Emergency”, which at the time of adoption of this Ordinance, reads as follows:

Emergency – An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, weather-related, or riot-related cause.

Section 2. Declaration of State of Emergency. A State of Emergency may be declared in accordance with G.S. §166A-19.22 in the event of an existing or threatened emergency within Mecklenburg County if the Board of Commissioners or the Chairman of the Board finds that an emergency exists. Such emergency declaration may also impose prohibitions and

restrictions as authorized by this Ordinance and other statutory authority, and shall remain in effect until the Board of Commissioners or the Chairman determines that they are no longer necessary for the protection of the public.

ARTICLE TWO: Proclamation Imposing Prohibitions and Restrictions:

The Chairman of the Board of Commissioners of Mecklenburg County and the Board of Commissioners by proclamation may impose the prohibitions and restrictions specified in Sections 3 through 9 of this Ordinance in the manner described in those Sections. The proclamation may impose as many of those specified prohibitions and restrictions as necessary because of an emergency to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The proclamation shall recite such findings as are necessary. The declaration of a state of emergency pursuant to this Ordinance shall enable and activate any and all applicable local plans, mutual assistance compacts, and agreements, and shall also authorize the furnishing of assistance thereunder.

The proclamation shall be in writing. The Chairman or Board of Commissioners 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 Mecklenburg County Courthouse. The Chairman shall send reports of the substance of the proclamation to the mass communications media which serves the affected area, and send copies to other members of the Board of Commissioners if the Chairman makes the proclamation. The Chairman shall retain a text of the proclamation and upon request shall furnish certified copies of it.

The declaration of emergency and the proclamation shall go into effect immediately upon its distribution to the mass communications media unless the declaration or proclamation sets a later time.

Section 3. Evacuation. The proclamation may direct and compel the evacuation of all or part of the population of the County of Mecklenburg; 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.

Section 4. Curfew. 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. The proclamation may exempt from some or all of the curfew restrictions classes of people whose exemption is necessary for the preservation of the public health, safety and welfare as more fully explained in Section 9. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until a subsequent proclamation removes the curfew.

Section 5. Restrictions on Possession, Consumption, or Transfer of 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 purchases of any alcoholic beverage within the area of the County described in the proclamation. The prohibition, if imposed, may apply to transfers of alcoholic beverages by employees of the Mecklenburg County Alcoholic Beverage Control stores as well as by anyone else within the geographical area described.

Section 6. Restriction on Possession, Transportation, and Transfer of Dangerous Weapons and Substances.

The proclamation may prohibit or restrict the possession, transportation, sale, purchase, storage, and use of gasoline, and dangerous weapons and substances, except that the proclamation may not place prohibitions or restrictions on lawfully possessed firearms or ammunition. As used in this Section, the term "dangerous weapons and substances" has the same meaning as it does under G.S. 14-288.1. As used in this Section, the term "firearm" has the same meaning as it does under G.S. 14-409.39(2).

Section 7. Restrictions on Access to 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 Sheriff and his subordinates or other law enforcement officer when directed in the proclamation to do so. When acting under this authority, the Sheriff and his subordinates and other law enforcement officers may restrict or deny access to any area, street, highway or location within the County 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.

Section 8. The Proclamation may prohibit or restrict:

- (a) Movement 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.

Section 9. Limitations on restrictions in proclamation.

The proclamation may limit the application of all or any part of such restrictions to any area specifically designated or described within the County and to specific hours of the day or night; and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firemen and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities, public transportation companies, and

newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and such 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 County.

Section 10. Excessive pricing prohibitions. As provided in *G.S. §166A-19.23*, a declaration of a state of emergency shall trigger the prohibitions against excessive pricing during states of disaster, states of emergency, or abnormal market disruptions pursuant to *G.S. 75-37* and *G.S. 75-38*.

Section 11. Removal of Prohibitions and Restrictions. The Chairman or Board of Commissioners shall by proclamation terminate the entire declaration of emergency or remove any of the prohibitions and restrictions when the emergency no longer requires them.

Section 12. Superseding and Amendatory Proclamations. The Chairman or Board of Commissioners may invoke the restrictions authorized by this Ordinance in separate proclamations, and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth herein.

Section 13. Termination of Proclamation. Any proclamation issued under this Ordinance shall expire five days after its last imposition unless sooner terminated in writing under the same procedures set forth herein for proclamations.

Section 14. In Case of Absence or Disability of Chairman. In case of the absence or disability of the Chairman, the Vice-Chairman of the Board of Commissioners, or such other person as may be designated by the Board of Commissioners, shall have and exercise all of the powers herein given the Chairman.

Section 15. Territorial Applicability. This ordinance shall NOT apply within the corporate limits of any municipality, or within any area of the County over which a municipality has jurisdiction to enact general police-power ordinances, unless the governing body of the municipality or the mayor of the municipality has consented to or requested its application, in which event it shall apply to such areas as fully and to the same extent as elsewhere in the County.

Section 16. Repeal of Conflicting Ordinances. The September 22, 1989 State of Emergency Ordinance is hereby repealed, and provisions of any other ordinances in conflict with the provisions of this Ordinance are also hereby repealed.

Section 17. Penalty for Violation. Any person violating any prohibition or restriction imposed by a proclamation authorized by this Ordinance shall be guilty of a Class 2 misdemeanor in accordance with *G.S. 14-288.20A*.

Section 18. Validity. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance and each section, subsection, clause, and phrase thereof, irrespective of the

fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 19. Effective Date of Ordinance

This ordinance is adopted and shall take effect on the ____ day of _____, 2017.

APPROVED AS TO FORM

County Attorney

Clerk to the Board of Commissioners