

STATE OF NORTH CAROLINA

85-01

DUPLIN COUNTY

STATE OF EMERGENCY ORDINANCE

Preface

Occasionally, whether by accident or acts of nature, it becomes desirable to restrict public access to a particular area, and/or to restrict the movement of certain items/materials. This need can be for the purpose of allowing emergency vehicles and personnel into the stricken area, for riot control, the prevention of plunder, etc., or for the purpose of reducing the dangerous effects of a hazardous materials accident. For whatever the reason, government has a responsibility within its capability, to protect its innocent citizens from exposure to unnecessary danger. This can be helped through the element of "crisis management". Thus, the principle reason for this ordinance is to assist public officials in providing "crisis management" where necessary and thus lessen the risk of personal danger and property damage.

s/Calvin Turner
Chairman

DUPLIN COUNTY STATE OF EMERGENCY ORDINANCE

AN ORDINANCE AUTHORIZING THE PROCLAMATION OF A STATE OF EMERGENCY AND THE IMPOSITION OF PROHIBITIONS AND RESTRICTIONS DURING A STATE OF EMERGENCY.

Section I. Purpose

The purpose of the ordinance is to provide an avenue whereby the Chairman of the Board of County Commissioners can take action, on an emergency basis, to minimize possible suffering of citizens or possible property damage by limiting access to certain areas, and/or to limit the movement of objects or people during certain periods.

Section II. Authority

This Ordinance issued under the authority of Chapter 14, Article 36A, as amended, of the North Carolina General Statutes.

Section III. State of Emergency; Restrictions Authorized

(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 Duplin County or any part thereof, or threatening damage to or destruction of property, the Chairman of the Board of Commissioners of Duplin County is hereby authorized and empowered under Section 14-288.13 to issue a public proclamation declaring to all persons the existence of such a state of emergency, and, in order to more effectively protect the lives and property of people within the county, to place in effect any or all of the restrictions hereinafter authorized.

(c) The Chairman is hereby authorized and empowered to limit by the proclamation 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 the people within the county.

Section IV. Proclamation Imposing Prohibitions and Restrictions

(a) The Chairman of the Board of Commissioners of Duplin County by proclamation may impose the prohibitions and restrictions specified in Sections V through IX of this ordinance in the manner described in those sections. The Chairman may impose as many of those specified prohibitions and restrictions as he 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 Chairman shall recite his findings in the proclamation.

(b) The proclamation shall be in writing. The Chairman 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. The Chairman shall retain a text of the proclamation and furnish upon request certified copies of it for use as evidence.

Section V. Curfew

(a) 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 Chairman may exempt from some or all of the curfew restrictions classes of people whose exemption the Chairman 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 Chairman by proclamation removes the curfew.

Section VI. Restrictions on Possession, Consumption, or Transfer of Alcoholic Beverage

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

Section VII. Restrictions on Possession, Transportation, and Transfer of Dangerous Weapons and Substances

(a) The proclamation may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance. The Chairman may exempt from some or all of the restrictions classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is necessary to the preservation of the public health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(b) "Dangerous weapon or substance" means:

- (1) Any deadly weapon, ammunition, incendiary device, explosive, 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 such instrument or substance will be so destructively used.
- (3) Any part or ingredient in any instrument or substance included above.

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

Section VIII. 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 when directed in the proclamation to do so by the Chairman. When acting under this authority, the Sheriff and his subordinates may restrict or deny access to any areas, 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 IX. 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.

Section X. Amendments of the Proclamation

The Chairman may amend or extend the proclamation from time to time, making such modifications as he would have been authorized to include in the original proclamation.

Section XI. Removal of Prohibitions and Restrictions

The Chairman shall by proclamation remove the prohibitions and restrictions as the emergency no longer requires them, or when directed to do so by the Board of Commissioners. However, the proclamation shall expire five days after its last imposition unless sooner terminated.

Section XII. Separate and Superseding Proclamations

The Chairman in his discretion may invoke the restrictions authorized by this ordinance in separate proclamations, and may amend any proclamation by means of a superseding proclamation.

Section XIII. 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 XIV. Penalty for Violation

Any person violating any prohibition or restriction imposed by a proclamation authorized by this ordinance 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.

Section XV. Repeal of Conflicting Ordinances

All ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section XVI. Territorial Applicability

This ordinance shall not apply within the corporate limits of any Municipality, or within any area of the County over which the Municipality has jurisdiction to enact general police-power ordinances, unless the Municipality by resolution consents to its application, in which event it shall apply to such areas as fully and to the same extent as elsewhere in the County.

Section XVII. 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, sentences, clauses, or phrases be declared invalid.

Section XVIII. Effective Date of Ordinance

This ordinance shall take effect the 1st day of August, 1985.

s/Calvin C. Turner
Calvin C. Turner, Sr., Chairman
Duplin County Board of Commissioners

ATTEST: s/Ralph Cottle