

CHAPTER 31: STATE OF EMERGENCY

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Statutory reference:

*Authority, see G.S. Ch. 14, Art. 36A,
Ch. 166A, and Ch. 153A*

§ 31.01 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 the county or any part thereof, or threatening damages to or destruction of property, the Chairperson of the Board of Commissioners of the county is authorized and empowered under G.S. §§ 14-288.13 and 166A-8 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 Chairperson 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, 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; 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.

§ 31.02 PROCLAMATION IMPOSING PROHIBITIONS AND RESTRICTIONS.

(A) The Chairperson of the Board of Commissioners of the county by proclamation may impose the prohibitions and restrictions specified in §§ 31.03 through 31.08 in the manner described in those sections. The Chairperson 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 Chairperson shall recite his findings in the proclamation.

(B) The proclamation shall be in writing. The Chairperson 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 Chairperson shall send reports of the substance of the proclamation to the mass communications media which serves the affected area. The Chairperson shall retain a text of the proclamation and furnish upon request certified copies of it.

§ 31.03 EVACUATION.

The Chairperson may direct and compel the evacuation of all or part of the population of Alexander County, to prescribe routes, modes of transportation, and destination in connection with evacuation; and to 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.

§ 31.04 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 Chairperson may exempt from some or all of the curfew restrictions classes of people whose exemption the Chairperson 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 Chairperson by proclamation removes the curfew.

§ 31.05 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 Alcoholic Beverage Control stores as well as by anyone else within the geographical area described.

§ 31.06 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 Chairperson 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's health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

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

DANGEROUS WEAPON or DANGEROUS 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 such instrument or substance will be so used.

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

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

(D) A violation of this section shall be punishable as provided in G.S. § 14-288.7.

§ 31.07 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 by the Chairperson. When acting under this authority, the Sheriff and his subordinates when directed in the proclamation to do so by the Chairperson. When acting under this authority, the Sheriff and his subordinates 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.

§ 31.08 GENERAL PROHIBITIONS AND RESTRICTIONS.

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.

§ 31.09 REMOVAL OF PROHIBITIONS AND RESTRICTIONS.

The Chairperson 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 Board of Commissioners.

§ 31.10 SUPERSEDING AND AMENDATORY PROCLAMATIONS.

The Chairperson in his/her discretion may invoke the restrictions authorized by this subchapter in separate proclamations, and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in § 31.02.

§ 31.11 TERMINATION OF PROCLAMATION.

Any proclamation issued under this subchapter shall expire five days after its last imposition unless sooner terminated in writing under the same procedures set forth in § 31.02 for proclamations.

§ 31.12 ABSENCE OR DISABILITY OF CHAIRPERSON.

In case of the absence or disability of the Chairperson, the Vice-Chairperson of the Board of Commissioners, or such other Commissioner as may be designated by the Board of Commissioners, shall have and exercise all of the powers herein given the Chairperson.

§ 31.99 PENALTY.

(A) Except as provided in § 31.06, any person violating any prohibition or restriction imposed by a proclamation authorized by §§ 31.01 through 31.12 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 [i.e., § 10.99].

