



**DURHAM COUNTY
EMERGENCY MANAGEMENT ORDINANCE**

- WHEREAS,** The North Carolina General Assembly has adopted Article 1A of Chapter 166A of the General Statutes, entitled “North Carolina Emergency Management Act”, which revises and recodifies and 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-19.15, which is part of the North Carolina Emergency Management Act, assigns to Counties responsibility for emergency management within the geographical limits of such county; 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 empower their Boards, to exercise certain powers and authorities to deal with states of emergency; and
- WHEREAS,** due to changes in the relevant General Statues and the greatly expanded operations and capabilities of emergency management the existing County ordinances on Civil Emergencies need to be significantly revised and replaced.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of Durham County, that:

1. The existing Chapter 10 of the Durham County Code of Ordinances is **HEREBY REPEALED**.
2. The following Ordinance is **HEREBY ADOPTED**.

Chapter 10 – EMERGENCY MANAGEMENT

ARTICLE I. - IN GENERAL

Sec. 10-1. - Short title

This chapter shall be known and may be cited and referred to as the "Emergency Management Ordinance" for Durham County.

Sec. 10-2. - Purpose

- a. It is the intent and purposes of this chapter to establish an emergency management agency to ensure the complete and efficient utilization of all resources of Durham County and City of Durham in the event of an emergency or disaster.
- b. The emergency management agency shall be the coordinating entity for all activity in connection with emergency management within the county; it will be the agency through which the Board of Commissioners and City Council will exercise the authority and discharge the responsibilities vested in them during states of disaster or emergency.
- c. The emergency management agency shall be the central coordinating agency for activities and programs relating to emergency and disaster prevention, protection, mitigation, response and recovery among agencies and officials of the county and with similar agencies and officials of other counties, the state and federal agencies; and with other private and quasi-official organizations.

Sec. 10-3. – Definitions

- a. 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, health-related or riot-related cause.
- b. Emergency Management Forces. The employees, equipment and facilities of all county and municipal departments, boards, councils, institutions, acting in furtherance of the purposes of this chapter. It shall also include all volunteer personnel, equipment and facilities contributed by or obtained from volunteer persons or agencies who have offered services to, and been formally accepted by, either the City or County of Durham, and are therefore working in the capacity of emergency management volunteers.
- c. For the purposes of this chapter all other words used herein shall have their usual definition, unless those words and terms have been specifically defined by a relevant statute, such as N.C.G.S. §166A-19.3 or other statute in Article 1A of Chapter 166A of the North Carolina General Statutes, or where the context clearly indicates or requires a different meaning.

Sec. 10-4. - Preservation of Authority

- a. This chapter does not relieve any county department or agency of the responsibilities or authority given to it by state law or by local chapter, nor will it adversely affect the work of any volunteer agency organized for relief in disaster situations.
- b. This chapter does not abridge or modify the authority of emergency medical services personnel, law enforcement, firefighters, or other relevant public officers and agencies from exercising their authority to protect the public health and safety, as that authority is established by state and local law.
- c. This chapter shall not abridge or modify the authority of the governor or their delegates to implement emergency measures during declared states of disaster or emergency.

Sec 10-5. – Violations

- a. Violations of any provision of this Chapter or declaration enacted or declared under this chapter shall be punished in accordance with N.C.G.S. §14-288.20A(1).
- b. Any person interfering with, or obstructing, hindering, or delaying any public officer in performing their duties under the provisions of this chapter, or any declaration, regulation or plan issued thereunder shall be punished in accordance with N.C.G.S. §14-223.
- c. It shall be a misdemeanor for any person to willfully obstruct, hinder or delay any other emergency management forces in the enforcement of the provisions of this chapter or performing their duties pursuant to any plan or restriction issued thereunder and upon conviction, shall be punished in accordance with section 1-6 of the Durham County Code of Ordinances.

Secs. 10-6.—10-25. – Reserved

ARTICLE II. – DURHAM COUNTY EMERGENCY MANAGEMENT AGENCY

Sec 10-26.- Organization and Appointments

- a. The organization shall consist of the following:
 - 1. An agency of emergency management within the Office of Emergency Services, under the direction of the Board of Commissioners, through the County Manager and subordinate county staff, as authorized by N.C.G.S. §166A-19.15(2).
 - 2. A director of the emergency management agency will be appointed who will be designated as the Chief Emergency Manager. The Chief Emergency Manager will be a person well versed and trained in emergency management processes and procedures involving the activities of various agencies that serve to protect the public health, safety and welfare in the event of an emergency.
 - 3. The Chief Emergency Manager shall designate and appoint a Deputy Emergency Manager to assume the duties of the Chief Emergency Manager in the event of their absence or disability. Other assistants and employees that are deemed necessary by the Board of Commissioners for the proper functioning of the agency shall be appointed. The Chief Emergency Manager and all other employees shall meet all requirements of state law to serve in emergency management and take the prescribed oath;
 - 4. The Emergency Management Forces as defined in Section 10-3(b). Duties assigned to County or City departments shall be the same as, or similar to, the normal duties of the department, where possible; and

Sec. 10-27. - Duties and responsibilities of the Chief Emergency Manager

- a. The Chief Emergency Manager shall be responsible for the organization, administration

and operation of the emergency management agency, subject to the direction and control by the Director of the Office of Emergency Services. The Chief Emergency Manager shall coordinate the activities, services and programs for emergency management and disaster response and recovery within Durham County and shall maintain liaison with the state and federal authorities and the authorities of nearby political subdivisions so as to insure the most effective operation and implementation of the emergency management plans.

- b. The Chief Emergency Manager's duties shall include, but not be limited to, the following:
 1. Manage a comprehensive emergency management program for Durham County pursuant to Chapter 166A, including, but not limited to elements addressing prevention, protection, mitigation, response, and recovery from emergencies.
 2. Compel and coordinate the activity of all other public and private agencies engaged in any emergency management activities within the City and County of Durham.
 3. Through public informational programs, educating the populace as to actions necessary and required for the protection of their persons and property in case of enemy attack, terrorism, or disaster, either impending or present.
 4. Manage exercises to ensure the efficient operation of the emergency management forces and to familiarize residents, businesses, educational institutions, and partner agencies with emergency management regulations, procedures and operations.
 5. Monitor and advise the manager of any and all threats, emergencies or disasters that pose a risk to the lives and safety of the residents of Durham County, proposing solutions for their decision on how best to protect people and property from imminent danger, or from further damage.
 6. Procure supplies and equipment, institute training programs, public preparedness information and education programs, manage and coordinate disaster drills and exercises in accordance with county-wide emergency plans.
 7. Manage the Durham County Emergency Operations Center as the central coordinating entity during emergencies or disasters.

Sec. 10-28. - Emergency management plans

- a. A countywide, all-hazard, emergency operations plan shall be adopted and maintained by resolution of the Board of Commissioners and Durham City Council. In the preparation of this plan, the services, equipment, facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent. When the plan is approved, each department or agency shall perform those functions assigned to it by the plan and shall maintain a current state of readiness at all times. The emergency operations plan shall have the full effect of local law whenever an emergency or disaster occurs.
- b. Supporting plans shall be maintained by the emergency management agency to ensure coordinated activities in the prevention, protection, mitigation, responses, and recovery from emergencies phases of emergency management. In the preparation of these plans, the services, equipment, facilities and personnel of all existing departments and agencies

- shall be utilized to the fullest extent. When the plans are published, each department or agency shall perform those functions assigned to it by the plans.
- c. The emergency management agency shall describe in emergency plans those positions for which lines of succession are necessary. In each instance, the responsible person within the cognizant department or agency shall designate and file with the emergency management agency a current list of three persons to be successors to each key position. The list shall be in order of succession and shall designate persons most capable of carrying out all duties and functions assigned to the position.
 - d. Each department or agency designated in emergency plans shall be responsible for carrying out all designated duties and functions designated by the plan. Duties will include organization and training of assigned employees and volunteers. Each department shall formulate procedures to implement the plan for the organization.
 - e. When a skill required for response or recovery from a declared emergency function is not available within local government, the Chief Emergency Manager shall be authorized to seek assistance beyond local government resources.

Sec. 10-29 - Planning related to special facilities

- a. Special facilities are those institutions or organizations whose populations are dependent upon the institution for transportation or care.
- b. Special facilities are required to have a plan in place to be self-sufficient in an emergency that would require evacuation of their facility due to a natural or technological disaster.
- c. These institutions include, but are not limited to, assisted living facilities, hospitals, schools (public and private), day care centers, elderly centers or other organizations.
- d. The institutions shall submit copies of their disaster plan to the emergency management agency for review on a regular basis as defined by the emergency management agency.

Sec. 10-30. – Continuity of operations plans

- a. To facilitate emergency preparedness planning for Durham County, all components of Durham County (the Manager's Office, departments, authorities, independent agencies, and independently elected officers) shall prepare continuity of operations plans pursuant to directions and guidelines from the emergency management agency. These continuity plans must establish a comprehensive and effective program that maintains the continuity of essential departmental functions during any emergency or other situation that disrupts normal operations. Durham County shall ensure that such contingency plans are consistent with other emergency and disaster plans within Durham County.
- b. These continuity of operations plans shall be reviewed by each department, authority, independent agency, and independently elected officer, and updated annually, and then submitted to the emergency management agency by the last day of September each year in an emergency management approved format and shall address, at a minimum, the following areas:
 - 1. Assignment of personnel as the continuity of operations program manager;

2. Direction and control including authorities and responsibilities of key personnel, the succession of key departmental leadership, and delegations of authority;
 3. Identification of essential and non-essential departmental functions and staffing capabilities required to continue providing essential functions;
 4. Activation, mobilization, relocation, alert, notification and implementation plans for activating the continuity of operations plan;
 5. Alternate facility operations;
 6. Communications (primary and back-up) systems that will be used to keep employees, on-duty and off-duty, informed of departmental response activities, to coordinate employees in order to carry out departmental missions, to keep in contact with customers and suppliers, and to coordinate with the Durham County EOC;
 7. Protection of facilities, equipment, supplies, and vital records;
 8. Recovery and restoration of services including employee support, critical asset repair/replacement, and the continuity of operations;
 9. Administration and logistics.
- c. Under the direction, and per the standards, of the emergency management agency, each department shall test their continuity of operations plan bi-annually.

Secs. 10-31—10-49. – Reserved

ARTICLE III. – STATE OF EMERGENCY

Sec. 10-50. – Delegation of authority to declare a state of emergency

- a. In the event of an existing or imminent emergency endangering the lives, safety, health and welfare of the people within Durham County, or any part thereof, or threatening damages to or destruction of property, the Chairperson of the Board of Commissioners is hereby authorized and empowered under N.C.G.S. §166A-19.31 to issue a public declaration of 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 and prohibitions hereinafter authorized. The Chairperson shall fully utilize all available emergency service and management agencies and shall consult with appropriate subject matter experts in making the decision to issue a declaration and in determining the appropriate restrictions and prohibitions to impose.
- b. In case of the absence or disability of the Chairperson, the Vice-Chairperson of the Board of Commissioners, shall have and exercise all of the powers herein given the Chairperson.
- c. In case of the absence or disability of the Vice-Chairperson of the Board of Commissioners, the longest serving Commissioner, or such other person as may be designated by the Board of Commissioners, shall have and exercise all of the powers herein given the Chairperson.

Sec. 10-51. –Declaration imposing prohibitions and restrictions

- a. The Chairperson of the Board of Commissioners by declaration may impose the

prohibitions and restrictions specified in [section 10-52](#) through [10-57](#) of this article in the manner described in those sections. The Chairperson may impose as many of those specified prohibitions and restrictions as they find necessary because of the declared emergency to maintain an acceptable level of public order and services and to protect lives, safety and property. The Chairperson shall recite the findings underlying their decision in the declaration.

- b. The declaration shall be in writing. For purposes of this Article, and when circumstances do not permit the issuance of a traditional document, an electronic document such as e-mail, or a pdf bearing an electronic signature shall constitute a writing. The Chairperson shall take reasonable steps to give notice of the terms of the declaration to those affected by it and shall post a copy of it in the county courthouse, with the Clerk to the Board, and on the County's website. The Chairperson shall send reports of the substance of the declaration to the mass communications media which serve the affected area. The Chairperson shall retain a text of the proclamation and furnish upon request certified copies of it.
- c. The Chairperson is hereby authorized and empowered to limit by the declaration 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, classes of people whose exemption the Chairperson finds necessary for the preservation of the public order, public health, safety, or welfare needs of people within the county while they are acting within the scope of their official duties, or are acting under the direction of emergency response/recovery force personnel. Those exempt from restrictions may include, but not be limited to, firefighters, law enforcement personnel, EMS personnel, doctors, nurses, military personnel, public utility employees, and newspaper, radio and television employees. The declaration shall state the exempted classes and the restrictions from which each is exempted.

Sec. 10-52. - Evacuation

The Chairperson may direct and compel the voluntary or mandatory evacuation of all or part of the population of the 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 declaration which shall be well publicized.

Sec. 10-53 – Curfew

- a. The declaration 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.
- b. Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the chairperson by declaration removes the curfew.

Sec. 10-54. - Restriction on access to areas

- a. The declaration may prohibit obtaining access or attempting to obtain access to any designated area 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 declaration 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.
- c. During a declared emergency, and within the emergency area, the Sheriff of Durham County is delegated authority to close streets, roads, highways, bridges, vehicular areas, or others areas ordinarily used for vehicular travel, except to the movement of emergency responders and other persons necessary for recovery from the emergency. When the Sheriff so acts, they are to provide prompt notification to the Emergency Operations Center.

Sec. 10-55. - Restrictions on possession, consumption or transfer of alcoholic beverages

The declaration 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 area of the county described in the declaration. The prohibition, if imposed, may apply to transfer of alcoholic beverages by employees of alcoholic beverage control stores as well as by anyone else within the geographic area described.

Sec. 10-56. - Restriction on possession, transportation and transfer of dangerous weapons and substances

The declaration may prohibit or restrict the possession, transportation, sale, purchase, storage, and use of gasoline and any dangerous weapon or substance, except for lawfully possessed firearms and ammunition.

- a. "Dangerous weapon or substance" means:
 - 1. Any item described as a "Dangerous weapon or substance" as defined in N.C.G.S. §14-288.1.
 - 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.
- b. "Firearm" has the same meaning as the term is defined in N.C.G.S. §14-409.39(2).

Sec. 10-57. – Other restrictions

The following activities or conditions may be prohibited or restricted:

1. Movement of people in public places;
2. The operation of offices, business establishments and other places to or from which people may travel or at which they may congregate; and
3. 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.

Sec. 10-58. - Removal of prohibitions and restrictions

The Chairperson shall by declaration 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.

Sec. 10-59. - Superseding and amending declarations

The Chairperson may, in their discretion, invoke the prohibitions and restrictions authorized by this article in separate declarations and may amend any declaration by means of an amendment to, or superseding declaration.

Sec. 10-60. - Territorial applicability

This article shall not apply within the corporate limits of the City of Durham unless either the City Council or Mayor consents to, or requests, the declaration of emergency's application.

Sec. 10-61. – Severability

Should any provisions of this chapter be declared invalid for any reason, by any court of competent jurisdiction, such declaration of invalidity shall not affect the validity of the provisions or of this Chapter as a whole.

This Ordinance is effective upon adoption.

This the ____ day of March 2020.

Wendy Jacobs, Chair
Durham County Board of Commissioners

ATTEST:

Monica W. Toomer, Clerk
Durham County

