

PERSON 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 enacted amendments to the law authorizing Counties to adopt ordinances relating to dealing with emergencies; and,

WHEREAS those new state enactments set the framework and authority for County ordinances; and,

WHEREAS the Ordinance below is based on the new state enactment.

NOW THEREFORE under the authority of Chapter 166A, and Chapter 153A of the North Carolina General Statutes, the Person County Board of Commissioners does hereby ordain as follows:

Section 1. State of Emergency; Restrictions Authorized

- (a) A State of Emergency shall be deemed to exist whenever the Chairman of the Person County Board of Commissioners makes a finding and declaration that an Emergency exists. "Emergency" is defined to mean 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.
- (b) In the event of an existing or threatened State of Emergency endangering the lives, safety, health and welfare of the people within Person County or any part thereof, or threatening damages to or destruction of property, the Chairman of the Person County Board of Commissioners is hereby authorized and empowered under General Statutes 166A-19.22 and 166A-19.31 to make a finding of an Emergency and to issue a public Declaration 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 Declaration the application of all or any part of such restrictions to any area specifically designated or described with in 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.

Section 2. Declaration Imposing Prohibitions and Restrictions

- (a) The chairman of the Person County Board of Commissioners by Declaration may impose the prohibitions and restrictions specified in sections 3 through 8 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 or suitable, 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 Declaration.
- (b) The Declaration shall be in writing. The Chairman 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. The Chairman shall send reports of the substance of the Declaration to the mass communications media which serves the affected area. The Chairman shall retain a text of the Declaration and furnish upon request certified copies of it.

Section 3. Evacuation

The Chairman may direct and compel the voluntary or mandatory evacuation of all or part of the population of Person County; prescribe routes, modes of transportation, and destination in connection with evacuation; and control ingress and egress of an emergency 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.

Section 4. 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 Declaration 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 Declaration shall state the exempted classes and the restrictions from which each is exempted.
- (b) Unless otherwise specified in the Declaration, the curfew shall apply during the specified period each day until the Chairman by Declaration removes the curfew.

Section 5. 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 transfers of alcoholic beverages by employees of 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

- (a) The Declaration 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 Declaration shall state the exempted classes and the restrictions from which each is exempted.
- (b) Except as stated in subsection (c) below, "dangerous weapon or substance" means:
 - (1) Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device as defined in General Statute 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) Notwithstanding anything in this ordinance to the contrary, "dangerous weapon or substance" shall not be deemed to include "lawfully possessed firearms or ammunition." The term "firearm" shall have the same meaning as that term is used in General Statute 14-409.39(2): a handgun, a shotgun, or rifle which expels a projectile by action of an explosion. The term "handgun" shall have the same meaning as that term is used in General Statute 14-409.39(3): a pistol, revolver, or other gun that has a short stock and is designed to be held and fired by the use of a single hand.
- (d) If imposed, the restrictions shall apply throughout the jurisdiction of the county or such part thereof as designated in the Declaration.

Section 7. Restrictions on Access to Areas

- (a) The Declaration 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 Declaration to do so by the Chairman. 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.

Section 8. The Declaration 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 Declaration.

Section 9. Removal of Prohibitions and Restrictions

The Chairman 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.

Section 10. Superseding and Amendatory Declaration

The Chairman in his discretion may invoke the restrictions authorized by this ordinance in separate Declaration, and may amend any Declaration by means of a superseding Declaration in accordance with the procedures set forth in Section 2.

Section 11. Termination of Declaration

Any Declaration of a State of Emergency issued under this ordinance shall expire when it is terminated by the Chairman. Prohibitions and restrictions imposed pursuant to the authority granted by this ordinance shall expire upon the earliest occurrence of either of the following: (1) The prohibition or restriction is terminated by the Chairman; (2) The State of Emergency is terminated.

Section 12. 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 13. Penalty for Violation

Any person violating any prohibition or restriction imposed by a Declaration authorized by this ordinance shall be guilty of a Class 2 misdemeanor, as provided by General Statute 166A-19.31 and General Statute 14-288.20A.

Section 14. Conflict with Other Ordinances

Whenever the provisions of this Ordinance conflict with other Ordinances of Person County, this Ordinance shall govern to the extent permitted by law.

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 the municipality has jurisdiction to enact general police-power ordinances, unless the municipality's governing body or mayor consents to or requests its application. Such consent or request may be with respect to one or more of the prohibitions and restrictions imposed by the Declaration, and need not be with respect to all prohibitions and restrictions imposed by the Declaration. The application of this ordinance and any declaration adopted thereto to the corporate limits of any municipality or any area of the county over which the municipality has jurisdiction to enact general police-power ordinances shall be limited in scope to that consented to or requested by the municipality's governing body or mayor.

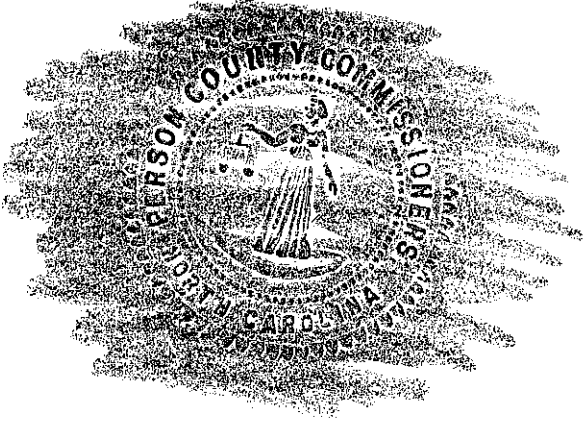
Section 16. Validity

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.

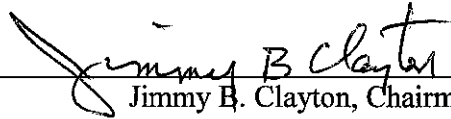
Section 17. Effective Date of Ordinance

This Ordinance shall become effective upon adoption by the Board of Commissioners.

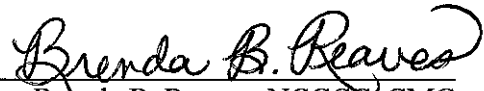
Adopted, this, the 2nd day of December, 2013.



PERSON COUNTY
BOARD OF COMMISSIONERS


Jimmy B. Clayton, Chairman

Attest:


Brenda B. Reaves, NCCCC, CMC
Clerk to the Person County
Board of County Commissioners