
AGENDA
CUMBERLAND COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING
MARCH 30, 2020
1:00 PM

INVOCATION

LOCATION: In order to comply with the N. C. Governor's Executive Order 121, Section 3.A.a., this special meeting will be available to the public and media live via the Cumberland County website (co.cumberland.nc.us), Facebook page (facebook.com/CumberlandNC), Youtube page (youtube.com/user/CumberlandCountyNC/videos), and on Fayetteville Cumberland Education Channel (FCE-TV) Spectrum Cable Channel 5.

PLEDGE OF ALLEGIANCE -

1. APPROVAL OF AGENDA
2. ITEMS OF BUSINESS
 - A. Consideration of Amendments to the Cumberland County Emergency Management Ordinance

ADJOURN



OFFICE OF THE COUNTY ATTORNEY

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF MARCH 30, 2020

TO: BOARD OF COUNTY COMMISSIONERS

FROM: COUNTY ATTORNEY

DATE: 3/28/2020

**SUBJECT: CONSIDERATION OF AMENDMENTS TO THE CUMBERLAND COUNTY
EMERGENCY MANAGEMENT ORDINANCE**

BACKGROUND

The County's Emergency Management Ordinance has not been updated to include the broadened scope of what constitutes an emergency under the state laws. The county attorney recommends amendments to ensure the county has full authority to take actions necessary for the current public health crisis created by the COVID 19 pandemic. The county attorney's recommended amendments to the Ordinance are set out in red font. Language that is stricken-through is existing language. Language that is underlined is new. A lot of the changes are technical corrections related to codification and do not need to be discussed. The changes that should be considered are identified in bold green font as follows:

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Change 1:

The existing ordinance uses the old statutory definition of emergency, which did not include "public health." The change incorporates all definitions in the State Emergency Management Act, as it may be amended from time to time. The current statutory definition of "emergency" is:

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, terrorism, weather-related, **public health**, explosion-related, riot-related cause, **or technological failure or accident**, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident.

Change 2:

The term "disaster" is used intermittently with the term "emergency" in the Ordinance. This change just makes the definition of these two terms the same.

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Recommended Change 3:

It is doubtful that the Emergency Management Director has the resources to control rioting and looting. This is particularly a law enforcement function.

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Change 4:

This replaces the existing language as to the prohibitions and restrictions the chair can impose by proclamation with the current statutory language, which is somewhat broader.

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Change 5:

This is included in the overall changes in Change 4 but is an option to give the authority to close streets, roads, highways, bridges, public vehicular areas, or other areas ordinarily used for vehicular traffic to the Sheriff instead of the chair of the board of commissioners.

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Recommended Change 6:

The county attorney recommends removing the current ordinance provision that restricts any proclamations of emergency to a period of five (5) days. That is not a statutory requirement. The board of commissioners always has the authority to rescind a proclamation made by the chair at any time if a majority of the board wishes to do so.

Consider Change 7:

The current ordinance provides that if the chair cannot be reached, the ordinance powers may be exercised by the vice-chair; and if the vice-chair cannot be reached, then by the director of Emergency Management. That further delegation may be made to the county manager if the board wishes to do so.

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Recommended Change 8:

This change just makes it clear that the penalty for violating a proclamation of emergency is a Class 2 misdemeanor in accordance with the provisions of state law.

RECOMMENDATION / PROPOSED ACTION

County attorney recommends the board determine whether the delegation of powers after the vice-chair should be to the county manager or remain with the director of emergency management and then approve that change and all other changes by adopting the following resolution:

RESOLUTION OF ADOPTION OF AMENDMENTS TO THE
CUMBERLAND COUNTY EMERGENCY MANAGEMENT ORDINANCE

Whereas, Cumberland County, with the rest of the nation, is in the midst of the COVID- 19 pandemic;
and

Whereas, the effort to minimize the spread of this pandemic requires the broadest range of responses
that are available under the law of North Carolina.

Therefore, be it resolved that the Cumberland County Emergency Management Ordinance, codified as
Article I of Chapter 5 of the Cumberland County Code, is hereby amended to include each of the
changes identified in the draft reviewed by the board and as reflected in the minutes, with the final draft
to be attached hereto by the county attorney and placed in the Cumberland County Ordinance Book
by the clerk to the board.

Be it further resolved that additional technical changes to the history, citations of current or past state
laws, citations of prior versions of the ordinance, and any further editor's notes for codification
purposes are permitted and shall be incorporated into the Cumberland County Code.

The amendments to the Cumberland County Emergency Management Ordinance shall become
effective immediately upon final adoption of this Resolution of Adoption.

ATTACHMENTS:

Description	Type
Cumberland County Emergency Management Revisions	Backup Material

Chapter 5

EMERGENCY MANAGEMENT*

Article I. In General

- Sec. 5-1. Short title.
- Sec. 5-2. Definitions.
- Sec. 5-3. Intent and purpose.
- Sec. 5-4. Obstruction of emergency management.
- Sec. 5-5. Government and private liability
- Sec. 5-6. Appointment and duties of director.
- Sec. 5-7. Extraordinary powers and duties of director.
- Sec. 5-8. Nonemergency responsibilities and functions of agency.
- Sec. 5-9. Proclamation of state of emergency; prohibitions and restrictions authorized.
- Sec. 5-10. Emergency powers and duties of department.
- Sec. 5-11. Regulations and proclamations effective as ordinances.
- Sec. 5-12. Conflicting ordinances, orders, rules and regulations.
- Sec. 5-13. Validity.
- Sec. 5-14. Violations.
- Secs. 5-~~14~~15-5-20. Reserved.

Article II. Enhanced 911 Telephone Service

- Sec. 5-21. Short title.
- Sec. 5-22. Authority and purpose.
- Sec. 5-23. Jurisdiction.
- Sec. 5-24. Definitions.
- Sec. 5-25. Enhanced 911 service established.
- Sec. 5-26. 911 charges.
- Sec. 5-26.1. Telephone records.
- Sec. 5-27. Misuse of 911 system; penalty.
- Sec. 5-28. Effective date.

***Editor's note**—An ordinance adopted June 15, 1987, changed the title of Ch. 5 from "Civil Preparedness" to "Emergency Management" and amended various sections of the chapter as set out herein.

Cross reference—Flood damage prevention, Ch. 6.5.

State law references—Riots and civil disorders, (former) Ch. 14, Art. 36A; powers of counties to enact ordinances to deal with states of emergency, (former) G.S. § 14-288.13; power of chairman of board of County Commissioners to extend emergency restrictions imposed in municipality, (former) G.S. § 14-288.14; continuity of local government in emergency, Ch. 162B; North Carolina Emergency Management Act, Ch. 166A.

EMERGENCY MANAGEMENT

ARTICLE I. IN GENERAL

Sec. 5-1. Short title.

This article shall be known and may be cited and referred to as the "Emergency Management Ordinance for Cumberland County"
(Comp. Ords., § 20-1.1; Ord. of 6-15-87, § 1; Ord. of 9-24-91; Amd. of 3-15-99)

Sec. 5-2. Definitions.

The following words and phrases used in this article shall be defined and interpreted as hereinafter provided:

Change 1:

General. The definitions contained in the North Carolina Emergency Mangement Act, Article 1A, Chapter 166A, North Carolina General Statutes, as amended from time to time, G.S. § 166A-4 are expressly incorporated and made a part of this article as though fully set forth herein.

Agency shall mean the county emergency management department.

Attack shall mean direct or indirect assault against territory under the jurisdiction of the county or municipalities therein, or of the state, or the United States of America by the military or paramilitary forces hostile to the government of the state or of the United States, or the agents thereof; or physical attack by means of weapons of mass destruction or by acts of terrorism or sabotage; and shall include assault by bombing (conventional or nuclear), chemical or biological agents or sabotage devices.

Dangerous weapon or substance shall mean:

- (1) Any deadly weapon, ammunition, explosive incendiary device, radioactive material or device (as defined in G.S. Section 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 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 in the foregoing when the circumstances indicate a probability that such a part or ingredient will be so used.

 Director shall mean the director of the department appointed as provided in this article.

Change 2:

Disaster shall ~~mean an occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade accidental, military or~~

paramilitary cause have the same meaning as *Emergency* as defined in the North Carolina Emergency Mangement Act, Article 1A, Chapter 166A, North Carolina General Statutes, as amended from time to time.

Emergency management forces shall mean the employees, equipment, material and facilities of all units of local government, including any department, commission, office or agency thereof whose emergency management responsibilities and functions have been delegated to the agency and all volunteer personnel, and the equipment and facilities of volunteer agencies that have been made available for emergency management purposes to the agency or to the units of local government that have delegated their emergency management responsibilities and functions to the agency.

Emergency management volunteer shall mean any person duly registered, identified and appointed by the director of the department and assigned to participate in emergency management functions.

Evacuation advisory shall mean a notice to the population of an area, or part thereof, in which a state of emergency has been declared that there is a substantial risk of death or serious injury to those remaining in such area, that public safety or public health officials cannot relieve or mitigate the danger, and that evacuation is advised.

Regulations shall include the department's plans, programs and rules, regulations and operating and emergency procedures prepared for emergency management activities.

To volunteer shall mean to contribute a service, equipment, material or facilities to the agency without expectation for or right to remuneration.
(Comp. Ords., § 20-1.3; Ord. of 6-15-87, §§ 1, 2; Amd. of 3-15-99)

Sec. 5-3. Intent and purpose.

(a) It is the intent and purpose of this article:

- (1) To establish the county emergency management department and to authorize the county to enter into an interlocal agreement which, when fully executed, will insure the complete and efficient utilization of the personnel and material resources of the county and of municipalities within the county to carry out the emergency management responsibilities and functions of those units of government; and
- (2) To delegate to the department those express powers, duties, rights and functions of this unit of government which it may lawfully delegate and to limit the exercise of such delegated powers, duties, rights and functions to those that are necessary to execute the emergency management responsibilities of the units of local government participating in such interlocal agreements.

(b) This article will not relieve any unit of local government or of any department, commission, office or other agency of such unit of any responsibilities or authority given to it under the Constitution and laws of the United States or the state or any charter or ordinance of the local unit of government except as expressly provided in such laws.

(c) This article is not intended to supersede or adversely affect the work of any volunteer agency organized for relief in disaster emergencies, except as expressly provided in the Constitution and laws of the United States or of the state, or as expressly provided herein. (Comp. Ords., § 20-1.2; Ord. of 6-15-87, § 1; Amd. of 3-15-99)

State law references—Purposes of state emergency management act, (former) G.S. § 166A-2, G.S. § 19.2; establishment of mutual aid agreements, (former) § 166A-10; G.S. § 166A-19.15.

Sec. 5-4. Obstruction of emergency management.

No person shall willfully obstruct, hinder or delay any member of the emergency management forces in the implementation of the provisions of emergency management plans or practice alerts, when such plans or alerts have been duly approved and authorized to be implemented, or in the enforcement of any regulations duly and lawfully promulgated under the provisions of this article.

(Comp. Ords., § 20-1.6; Amd. of 3-15-99)

State law reference—Resisting officers, G.S. § 14-223.

Sec. 5-5. Government and private liability.

(a) The conduct of emergency management activities, or the implementation of plans, or the promulgation of regulations under the provisions of this article, and the compliance in good faith on the part of the governmental officials, emergency management volunteers, and private parties with the provisions of such plans and regulations are hereby declared to be governmental functions of and on behalf of the county and the municipalities therein, which functions are intended for the protection and promotion of the public peace, health and safety. Neither the county nor the municipalities, nor agents and representatives of the same, or any individual, receiver, firm, partnership, corporation, association or trustee, or any of the agents thereof in good faith carrying out, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this article, shall be liable for any damage sustained to persons or property as the result of such activity.

(b) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the county or any municipalities therein the right to inspect, designate and use a whole or any part or parts of such real estate or premises for the purposes of sheltering persons during an actual, impending or practice disaster situation is hereby declared to be serving a governmental function of and on behalf of the county or the municipality concerned. In such case, such a person shall not be civilly liable for the death of, or injury to, any persons on or about such real estate or premises under such license, privilege or other permission, or for the loss of or damage to the property of such persons occurring while such real estate or premises are used for the aforesaid purpose during the aforesaid situation. (Comp. Ords., § 20-1.5; Ord. of 6-15-87, § 1; Amd. of 3-15-99)

State law references—Immunity and exemption, (former) G.S. § 166A-14; no private liability, § 166A-15; G.S. § 166A-19.60.

Sec. 5-6. Appointment and duties of director.

The department shall have an executive officer who shall be known as the director and who shall be appointed by the county manager and confirmed by the board of commissioners. All emergency management activity and forces authorized by this article or by any interlocal agreement, when executed, shall be under the supervision of the director. The director may employ such assistants and other personnel as are deemed necessary for the proper functioning of the department. The director shall have the authority to designate and appoint, from among such department employees, one or more deputy directors, who shall assume the emergency duties of the director in the event of his or her absence or inability to act during such emergencies until such time as a successor director can be appointed.
(Comp. Ords., § 20-1.3; Ord. of 6-15-87, § 1; Amd. of 3-15-99)

Sec. 5-7. Extraordinary powers and duties of director.

(a) In the event that no declaration of emergency as required in this chapter has been made, but a disaster or attack within the legal jurisdiction of the county or any municipality therein has occurred and timely communication with the governing bodies of the county and municipalities therein cannot be had, or if there is an imminent threat of an attack or disaster within the legal jurisdiction of the county or municipalities therein, and such threat is verified by proper state or federal authorities, and timely communication with the governing bodies of the county and municipalities therein cannot be had, and in either instance immediate action is necessary to protect life and property and preserve critical resources, the director shall be authorized to declare that an emergency exists and, without any declaration by the governing bodies, implement prior approved plans and promulgate prior approved regulations to the extent necessary, in his or her judgment, to protect life, property and critical resources in danger. If, in the judgment of the director, the emergency situation is such that the implementation and promulgation of prior approved plans and regulations will be insufficient to protect endangered life, property and critical resources adequately, the director shall have the authority to implement modified plans and promulgate additional regulations necessary to provide such protection. Modified plans and additional regulations may include, but shall not be limited to, the following:

- (1) Control of the movement of vehicles in order to facilitate the work of emergency management forces of the mass movement of persons from critical areas within the county.
- (2) Protection and maintenance of communications media for public information purposes.
- (3) Protection of food, water and other vital supplies necessary to preserve public health and safety.

Recommended change 3: Eliminate “control of rioting and looting.”

- (4) Control of rioting and looting.**

(b) The director shall possess such extraordinary powers and duties only until such time as communications can be established or reestablished with the governing bodies of the county and municipalities therein or until such governing bodies are lawfully succeeded or reconsti-

tuted. No action under the provisions of this article taken by the governing bodies of the county or municipalities therein or by the director shall preclude, contravene or be inconsistent with the lawful assumption of operational control of the agency and emergency management forces thereunder by the governor when ~~he assumed authority to do so~~when such authority is assumed under the North Carolina General Statutes or by duly constituted authorities of the government of the United States acting in accordance with law.

(Comp. Ords., § 20-1.3; Ord. of 6-15-87, § 1; Amd. of 3-15-99)

State law reference—Authority of county to enact ordinances to deal with states of emergency, ~~(former)~~ G.S. § 14-288.13; North Carolina Emergency Mangement Act, Article 1A, Chapter 166A; G.S. § 166A-19.31.

Sec. 5-8. Nonemergency responsibilities and functions of agency.

During any period in which an attack or disaster has not occurred or is not imminent, the department, under the supervision of the director, shall have the following responsibilities and functions:

- (1) Development and coordination of plans for the use of emergency management forces in the event of attack or disaster, including entering into pre-emergency contracts to expedite the department's response in the event of a disaster or attack. Such plans shall have the objective of minimizing or preventing damage to persons and property and of protecting and restoring to usefulness government services and public utilities necessary for the public health, safety and welfare.
- (2) Drafting and obtaining the prior approval of units of local government participating in or coordinating with any interlocal agreement under this article of regulations which shall become effective in the event of attack or disaster.
- (3) Coordination of the recruitment and training of emergency management forces so that such forces are available and are prepared to conduct the emergency management function in time of attack or disaster.
- (4) Negotiation and execution of agreements with owners or persons in control of buildings or other property for the use of such property for emergency management purposes in the event of attack or disaster, provided that no agreement shall authorize compensation of such owners or persons without the prior approval of the units of local government which shall be responsible for such compensation.
- (5) Provision of public information programs designed to educate the residents of the county concerning appropriate action on their part for the protection of their persons and property in the event of attack or disaster.
- (6) Coordination of public practice alerts authorized by appropriate local units of government designed to insure the readiness of emergency management forces and to familiarize residents of the county with emergency management regulations and activities which will be implemented and conducted in the event of attack or disaster.

- (7) Liaison with state and federal authorities and the authorities of appropriate political subdivisions outside the county so as to insure the preparation of effective emergency management plans and regulations and the effective coordination of the emergency management activities of the department with those of the other authorities in the event of attack or disaster.
- (8) Promulgation of standard operating procedures controlling the activities of department employees in fulfilling the responsibilities and conducting the functions designated above.

(Comp. Ords., § 20-1.3; Ord. of 6-15-87, § 1; Amd. of 3-15-99)

Sec. 5-9. Proclamation of state of emergency; prohibitions and restrictions authorized.

(a) A state of emergency shall be deemed to exist whenever, during times of public crisis, disaster, rioting, catastrophe, public health emergency or similar public emergency, 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) Pursuant to G.S. ~~sections 14-288.13 and 166A-8~~ Section 166A-19.31, the chair~~man~~ of the board of county commissioners, ~~as defined in G.S. Section 14-288.1(1)~~, is hereby authorized and empowered to determine and proclaim the existence of a state of emergency in the county, subject to the jurisdictional limitations set forth in G.S. ~~Section 14-288.13(e)~~ Section 166A-19.22(b), and to impose within the area of jurisdiction of this article those prohibitions and restrictions set forth in G.S. ~~Section 14-288.12(b)~~ Section 166A-19.31(b), and authorized below, which are appropriate at a particular time. The determination that a state of emergency exists and the imposition of prohibitions and restrictions shall be made on the basis of facts known to the chair~~man~~ or in good faith reliance upon facts presented to him or her by public safety officials and others reasonably believed to have knowledge of such facts.

(c) The chair~~man~~ is further authorized and empowered to limit the application of all or any prohibitions and restrictions set forth in a proclamation to specific parts of the area of jurisdiction of this chapter and to exempt from any or all of the prohibitions and restrictions imposed in a proclamation certain persons acting in the line of and scope of duties essential to the preservation of public order and immediately necessary to protect the public safety, health and welfare. Such persons may include, but are not limited to, law enforcement officers, firefighters and other government employees; volunteer firefighters and emergency medical services members; doctors, nurses and employees of hospitals and other medical facilities; on-duty federal or state military personnel; employees of public utilities and public transportation companies; and employees of newspapers, magazines, radio broadcasting and television broadcasting companies.

(d) A proclamation made hereunder shall be in writing, shall set forth findings of the facts upon which a determination of the existence of a state of emergency was made and upon which the prohibitions and restrictions contained therein were based, and shall impose only those prohibitions and restrictions reasonably necessary and appropriate at the time of the issuance

of the proclamation to restore or maintain public order, protect property, and the public health, safety and welfare. A proclamation may be amended to increase or reduce prohibitions and restrictions, subject to the same requirements set forth above for initial proclamations. A copy of any proclamation or amendment thereof shall be posted in the county courthouse and distributed so as reasonably to give notice to those persons affected by it. A copy of the proclamation or an amendment, together with a synopsis of the substance thereof designed for rapid mass communication, shall be provided to all the mass communication media serving the affected area. The chair~~man~~ issuing the proclamation or amendment thereof, or his or her designee, shall retain the original executed by him or her and furnish certified copies thereof to the public or governmental agencies and officials thereof, upon request.

(e) The chair~~man~~ of the board of commissioners is authorized and empowered to impose the following prohibitions and restrictions:

Change 4: Replace the following language that is stricken-through with the new language following it. The new language is the current statutory language.

~~(1) Upon movements of people in public places, by:~~

- ~~a. — Imposing a curfew prohibiting the appearance in certain public places during certain periods of time of anyone not exempted by the proclamation. The proclamation or any amendment thereof shall specify the public places and the period during each 24 hour day to which the curfew shall apply. Unless otherwise provided, the curfew shall apply to the same places and during the same period each unit the curfew is removed.~~
- ~~b. — Prohibiting or restricting access to disaster areas, areas subject to an evacuation advisory, and other areas identified as provided herein by anyone not exempted by the proclamation. The chairman is authorized to delegate to the sheriff of the county the discretionary power to designate and identify such areas, by posting a guard or patrol, posting a notice clearly visible to the public, or emplacement of a cordon or barricade, and enforce such prohibition or restriction. In exercising such power, the sheriff shall use the same standards required herein of the chairman in imposing a prohibition or restriction.~~
- ~~c. — By issuing an evacuation advisory to all or a part of the population within the area of jurisdiction of this article and, upon so doing, restricting evacuation to prescribed routes, modes of transportation and destinations.~~

~~(1) Of movements of people in public places, including any of the following:~~

- ~~a. Imposing a curfew.~~
- ~~b. Directing and compelling the voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area within the governing body's jurisdiction.~~
- ~~c. Prescribing routes, modes of transportation, and destinations in connection with evacuation.~~

- d. Controlling ingress and egress of an emergency area, and the movement of persons within that area.

Consider Change 5: The highlighted language in (e) below is optional, not required.

- e. Providing for the closure, within the emergency area, of streets, roads, highways, bridges, public vehicular areas, or other areas ordinarily used for vehicular travel, except to the movement of emergency responders and other persons necessary for recovery from the emergency. In addition to any other notice or dissemination of information, notification of any closure of a road or public vehicular area under the authority of this subdivision shall be given to the North Carolina Department of Transportation as soon as practicable. The Sheriff of Cumberland County may be given the authority to close streets, roads, highways, bridges, public vehicular areas, or other areas ordinarily used for vehicular travel. Any order of closure is subject to the provisions of G.S. Sections 166A-19.70(c) and (d).

- (2) ~~Upon Of~~ the operation of offices, business establishments, and other places normally open to the public and to or from which people may travel or at which they may congregate, ~~by anyone not exempted by the proclamation, by closing the premises for the duration of the state of emergency or by limiting the period of operation.~~

- (3) Upon the possession, transportation, sale, ~~and purchase, and consumption~~ of alcoholic beverages, ~~by prohibiting the same by anyone, including employees of an alcohol control commission store, and by prohibiting the consumption of alcoholic beverages other than in a person's own residence.~~

- (4) ~~Upon the possession, transportation, sale, purchase, storage and use of dangerous weapons and substances, as herein defined, and gasoline by anyone not exempted in the proclamation, by prohibiting the same except within the confines of a person's own premises. Such exception shall not apply to sales and purchases of such items.~~ Upon the possession, transportation, sale, purchase, storage, and use of gasoline, and dangerous weapons and substances, except that this subdivision does not authorize prohibitions or restrictions on lawfully possessed firearms or ammunition. As used herein, the term "dangerous weapons and substances" has the same meaning as it does under G.S. 14-288.1, and the term "firearm" has the same meaning as it does under G.S. 14-409.39(2).

- (5) Upon other activities and conditions, by prohibiting or restricting the same, upon an identification of such activities and conditions by the chair~~man~~ of the board of commissioners and a determination by him or her that control of the same is reasonably necessary to maintain order and protect lives or property during the state of emergency.

(f) Upon a determination by the chair~~man~~ of the board of commissioners that a state of emergency no longer exists, or upon a resolution of such board directing the chair~~man~~ to do so,

the chair~~man~~ shall, by superseding proclamation, terminate the state of emergency and all prohibitions and restrictions previously imposed. The chair~~man~~, upon a determination that a change is necessary, or upon a resolution of the board of commissioners directing the same, may amend or supersede or issue additional proclamations which alter the areas affected by prior proclamations and which increase or reduce the prohibitions and restrictions imposed by prior proclamations. ~~Any proclamation issued under this article shall expire at midnight of the fifth day following the day of its issue, unless it is sooner terminated or amended or superseded as set forth above.~~ **Recommended Change 6: Remove the 5 days restriction in this highlighted language above.**

Consider Change 7 in highlighted language in (g) below. Board may decide whether proclamation authority should flow to county manager or EM Director in event chair or vice-chair cannot be reached.

(g) In the event that the director, the county manager or public safety officials who are aware of facts indicating a state of emergency exists make a diligent effort and cannot communicate with the chair~~man~~ of the board of commissioners within a reasonable time, the vice-chair~~man~~ of such board shall have and exercise all the powers herein granted the chair~~man~~. In the event that neither the chair~~man~~ nor the vice-chair~~man~~ can be located within a reasonable time, the director/county manager shall exercise the powers and authority granted him or her under ~~section 5-7 of~~ this article until such time as either of the aforesaid officials are located and assume the powers herein granted.

(Comp. Ords., § 20-1.3; Ord. of 6-15-87, §§ 1, 3; Amd. of 3-15-99)

State law references—Municipal ordinances to deal with states of emergency, ~~(former)~~ G.S. § 14-288.12; county ordinances to deal with states of emergency, ~~(former)~~ G.S. § 14-288.13; ~~power of chairman of board of county commissioners to extend emergency restrictions imposed in municipality, G.S. § 14-288.14~~ G.S. § 166A-19.31.

Sec. 5-10. Emergency powers and duties of department.

In the event of a proper and lawful declaration of a local state of emergency by any or all of the units of government that have delegated emergency management functions and responsibilities to the department upon the occurrence of or imminent threat or disaster within its or their areas of legal jurisdiction, the department, supervised by the director, shall have the authority to implement prior approved plans and promulgate prior approved regulations to the extent provided by and exempt as may be otherwise required in such declaration or declarations. Such authority shall, upon coordination with the county finance director and county manager, include authority to authorize emergency purchases of services, supplies and equipment to procure resources essential to expedite the department's response to any emergency. This authority shall be in addition to the non-emergency authority already possessed by the department. Such plans and regulations may be amended, modified or terminated only by action of the governing bodies of the local units of government cooperating with the agency or participating in an interlocal agreement authorized by this article.

(Comp. Ords., § 20-1.3; Ord. of 6-15-87, § 1; Amd. of 3-15-99)

Sec. 5-11. Regulations and proclamations effective as ordinances.

All regulations and proclamations, and the prohibitions and restrictions included in them, duly and lawful promulgated under this article by the department shall be deemed to be, and have the effect of, a county ordinance. ~~Any person who violates such regulations and proclamations, and the prohibitions and restrictions included in them, shall be guilty of a misdemeanor and punished as allowed by law.~~ **See section 5-14 below.**
(Comp. Ords., § 20-1.6; Ord. of 6-15-87, § 4; Amd. of 3-15-99)

Sec. 5-12. Conflicting ordinances, orders, rules and regulations.

At all times when regulations lawfully promulgated pursuant to this article shall be in effect, such regulations shall supersede all existing ordinances, orders, rules and regulations of the county insofar as the latter may be inconsistent with such regulations.
(Comp. Ords., § 20-1.8; Amd. of 3-15-99)

Sec. 5-13. Validity.

If any section, subsection, sentence, clause or phrase of this article is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this article. The board of commissioners hereby declares that it would have passed this article and amendments thereto and each remaining section, subsection, clause and phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses or phrases might be declared invalid.
(Ord. of 6-15-87, § 5; Amd. of 3-15-99)

Recommended Change 8: This is the current statutory language.

Sec. 5-14. Violations.

Any person who violates any provision of an ordinance or a declaration enacted or declared pursuant to this article shall be guilty of a Class 2 misdemeanor in accordance with G.S. 14-288.20A.
(G.S. § 166A-19.31.)

Secs. 5-15-5-20. Reserved.