

Ordinance No. XXX
Emergency Management Ordinance
BOC Meeting May 7, 2014



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**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA**

BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Code of Ordinances shall be amended as follows:

PART I. That Sec. 14-1. ***State of emergency; restrictions authorized.*** be amended to read as follows:

- ~~(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.~~
- ~~(a) An "emergency" is 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) A "state of emergency" is the finding and declaration by the mayor that an emergency exists.~~
- ~~(b)(c) If the mayor finds that an an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the town or any part thereof, or threatening damage to or destruction of property exists,~~ the mayor is hereby authorized and empowered under G.S. ~~14-288-12166A-19.22~~ 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 town, to place in effect any or all of the restrictions authorized in this chapter.
- ~~(c)(d)~~ The mayor is hereby authorized and empowered to limit by the proclamation the application of all or any part of ~~thesuch~~ restrictions authorized by this chapter to any area specifically designated or described within the town and to specify 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 deemed 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 town.

PART II. That Sec. 14-2. ***Proclamation imposing prohibitions and restrictions.***

- (a) The mayor by proclamation may impose the prohibitions and restrictions specified in sections 14-3 through 14-8 in the manner described in those sections. The mayor may impose as many of those specified prohibitions and restrictions as the mayor finds are

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necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The mayor shall recite findings in the proclamation.

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

PART III. That Sec.14-3. *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 hours to which the curfew applies. The mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the mayor finds necessary for the preservation of the public health, safety and welfare. The proclamation shall state the exempt 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 mayor by proclamation removes the curfew.

PART IV. That Sec.14-4. *Restrictions on possession, consumption or transfer of Intoxicating liquor.* be amended to read as follows:

Restrictions on possession, transportation, sale, purchase, and consumption ~~or transfer of intoxicating liquor alcoholic beverages~~: ~~;- The proclamation pursuant to this chapter may prohibit the possession and/or consumption of any intoxicating liquor, including beer and wine alcoholic beverages, other than on one's own premises, and may prohibit the transfer, transportation, sale and/or purchase of any intoxicating liquor alcoholic beverages within the area of the town described in theis 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.~~

PART V. That Sec.14-5. *Restrictions on possession, transportation and transfer of dangerous weapons and substances.* be amended to read as follows:

~~(a)-(a)~~ The proclamation pursuant to this chapter may prohibit the possession, transportation, sale, purchase, storage, and use of gasoline ~~transportation or possession off one's own premises, or the sale or purchase of any and~~ dangerous weapons or substances, except lawfully possessed firearms or ammunition. The mayor 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)~~ For the purposes of this Section, the term "dangerous weapon or substance" shall have the same meaning as it does under means is defined by G.S. 14-288.1(2) which, as of the adoption of this Section, is as follows: as any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device, as defined in G.S. 14-288.8(c)(5), or any instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property; or any instrument or substance that is capable of being used to inflict

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serious bodily injury, when the circumstances indicate a probability that such instrument or substance will be so used; or any part or ingredient in any instrument or substance included above, when the circumstances indicate a probability that such part or ingredient will be so used. Notwithstanding the provisions of this Section to the contrary, for purposes of this Section, the term "dangerous weapon or substance" does not include a firearm, as that term is defined in this Section.

(b) (c) For the purposes of this Section, the term "firearm" shall have the same meaning as it does under is defined by G.S. 14-409.39-(2), which, as of the adoption of this Section, is as follows: as a handgun, shotgun, or rifle which expels a projectile by action of an explosion.

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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 will be so destructively used;~~
3. ~~Any part or ingredient in any instrument or substance included above.~~

(d) If imposed, the restrictions of this Section shall apply throughout the jurisdiction of the town or such part thereof designated in the proclamation.

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PART VI. That Sec.14-6. *Restriction on access to areas.*

- (a) The proclamation pursuant to this chapter may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this chapter 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 chief of police and his subordinates when directed in the proclamation to do so by the mayor. When acting under this authority, the chief of police and his subordinates may restrict or deny access to any area, street, highway or location within the town 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.

PART VII. That Sec.14-7. *Evacuations of areas.*

The proclamation pursuant to this chapter or any amendment thereto may require the emergency evacuation of any area. The proclamation shall state the geographic boundaries of the area to be evacuated and upon issuance of the proclamation the chief of police and his subordinates shall take all necessary action to remove all persons from the area and to deny access to the area as set out in section 14-6.

PART VIII. That Sec.14-8. *Prohibitions and restrictions generally.* be amended to read as follows:

The proclamation pursuant to this chapter may prohibit or restrict:

1. Movements of people in public places, and controlling ingress and egress of an emergency area, and the movement of persons within the emergency area.
2. The operation of offices, business establishments and other places to or from which people may travel or at which they may congregate.

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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.
4. The sales price of goods and the cost of services to prevent "price gouging". Price gouging as it relates to the sales price of goods is defined as the sale of goods in excess of the manufacturer's suggested retail price or at a price above the pre-emergency level, unless the merchant can document purchase of the goods at an increased cost. Price gouging as it relates to the cost of services is defined as the providing of such services at a cost greater than that customarily charged for such services in a non-emergency situation unless the service provider can document special circumstances or expenses justifying a higher cost. Any restrictions imposed under this subsection shall extend for a period of 90 days following the date of the declaration of the state of emergency unless sooner terminated or extended by subsequent proclamation or resolution.

PART IX. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the 7th day of May, 2014.

Robert C. Edwards, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: May 7, 2014

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: AYES 0 NAYS