



Town of Summerfield  
Agenda Item Cover Sheet

Meeting date: May 14, 2013

Agenda item: 10

*Agenda item:*

**Public hearing/action regarding State of Emergency Ordinance revisions**

*Attachment(s):* yes

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*Staff comments/recommendations:*

The attachments provide an explanation and this is part of the Guilford County Multi-Jurisdictional Hazard Mitigation Plan. Per the county's request, the town passed an October 2010 resolution adopting and endorsing this county plan. The county now requests the adoption or revision (red-lined draft attached) of a State of Emergency Ordinance to comply with NCGS 166a. Per the Town Attorney's counsel, it should also be in the form of an ordinance from an enforcement standpoint, and this would require a public hearing. The ordinance is attached for consideration.

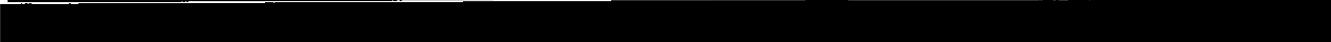
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*Notes:*

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*Town Council action/comments:*

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**ORDINANCE ADOPTING AND ENDORSING CHANGES TO  
GUILFORD COUNTY'S STATE OF EMERGENCY ORDINANCE**

**WHEREAS**, during the 2012 Session, the North Carolina General Assembly enacted significant legislation that consolidated, reorganized, and updated the state's emergency management statutes; and;

**WHEREAS**, the legislation's primary purpose is to consolidate and reorganize the statutes that establish emergency management authorities for state and local governments currently found in Article 1 of G.S. Chapter 166A (North Carolina Emergency Management Act of 1977) and Article 36A of G.S. Chapter 14 (Riots and Civil Disorders); and,

**WHEREAS**, Article 1 of Chapter 166A defines responsibilities within State government for direction and control of the state's emergency management program, and authorizes cities and counties to establish local emergency management programs (municipal emergency management programs are subject to coordination with the county). Article 36A authorizes cities and counties to enact ordinances imposing various restrictions and prohibitions during a locally declared state of emergency; and,

**WHEREAS**, S.L. 2012-12 (HB843) amends these emergency management statutes in four primary ways: consolidates responsibilities to one place in the general statutes; clarifies and makes uniform the terminology used throughout the emergency management statutes; incorporates operational practices that have evolved in recent years and clears up points of confusion under current law; and limits the restrictions and prohibitions that cities and counties can impose on dangerous weapons during a locally-declared state of emergency; and,

**WHEREAS**, the County of Guilford has provided recommended changes to Chapter 7.5 Civil Emergencies, Article II-State of Emergency, and following a public hearing on the matter the Town Council of the Town of Summerfield is in agreement with the recommended changes.

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council of the Town of Summerfield adopts and endorses changes to the "Chapter 7.5 Civil Emergencies, Article II – State of Emergency" as approved by the Guilford County Emergency Services and the Guilford County Board of Commissioners.

Adopted this 14th day of May 2013.

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Mark E. Brown, Mayor

ATTEST:

\_\_\_\_\_  
Valarie R. Halvorsen, Town Clerk

## Valarie Halvorsen

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**From:** Don Campbell [Don.Campbell@guilford-es.com]  
**Sent:** Tuesday, February 26, 2013 1:57 PM  
**To:** jim.robinson@greensboro-nc.gov; glenn.clapp@highpointnc.gov; bbaxley@gibsonville.net; boakley@oakridgenc.com; cgdeal@embarqmail.com; clerk@summerfieldgov.com; kbillings@jamestown-nc.gov; mwolfe@jamestown-nc.gov; ssmith@oakridgenc.com; sedaliatownhall@gmail.com; stoksdl@bellsouth.net; tclerk@gibsonville.net; townclerk@pleasantgarden.net; whitsettnc@embarqmail.com  
**Cc:** Emergency Management  
**Subject:** State of Emergency Ordinance Change  
**Attachments:** EM 2012 Legislative Summary.pdf; Chapter\_7.5\_CIVIL\_EMERGENCIES - w Changes.docx; Chapter\_7.5\_CIVIL\_EMERGENCIES - BOC APPROVED DEC 2012.pdf

**Categories:** Red Category

During our yearly Hazard Mitigation meeting I discussed the need to update your State of Emergency ordinance to comply with changes from the most recent legislative session. In December of 2012, the Guilford County Board of Commissioners approved our updated Ordinance 7.5 to comply with General Statute 166a and to codify the Emergency Management program in Guilford County.

From the municipalities standpoint, you will need to update your State of Emergency ordinance to comply with NCGS 166a and recent court decisions (Bateman vs Perdue) regarding gun restrictions, evacuation clarifications, etc.

Attached you will find the legal background behind the change (EM 2012 Legislative Summary) document. A Word document which clearly marks the required changes to your State of Emergency ordinance, and a PDF document with the Guilford County Ordinance 7.5 as approved.

Please let me know if you have any questions or concerns regarding the ordinance revisions. Additionally, If you would like me to be in attendance when your Board takes up the item for discussion, please let me know so that I can get it on my calendar.

Thanks,

Don

**Donald L. Campbell, CEM**  
Emergency Management Division Director  
Guilford County Emergency Services  
(336) 641-6567

COUNTY CODE  
Chapter 7.5 - CIVIL EMERGENCIES  
ARTICLE II. - STATE OF EMERGENCY

## Chapter 7.5 - CIVIL EMERGENCIES <sup>[10]</sup>

<sup>(10)</sup> Cross reference— Administration, Ch. 2; emergency services, Ch. 8; fire prevention and protection, Ch. 9.

ARTICLE I. - IN GENERAL  
ARTICLE II. - STATE OF EMERGENCY

### ARTICLE II. - STATE OF EMERGENCY

Sec. 7.5-11. - Restrictions authorized.

Sec. 7.5-12. - Proclamation imposing prohibitions and restrictions.

Sec. 7.5-13. - Evacuation.

Sec. 7.5-14. - Curfew.

Sec. 7.5-15. - Restrictions on possession, consumption or transfer of alcoholic beverages.

Sec. 7.5-16. - Restriction on possession, transportation and transfer of dangerous weapons and substances.

Sec. 7.5-17. - Restriction on access to areas.

Sec. 7.5-18. - Activities, etc., prohibited or restricted.

Sec. 7.5-19. - Removal of prohibitions and restrictions.

Sec. 7.5-20. - Superseding and amending proclamations.

Sec. 7.5-21. - Termination of proclamation.

Sec. 7.5-22. - Exercise of powers in absence or disability of chairman.

Sec. 7.5-23. - Penalty for violation.

Sec. 7.5-24. - Territorial applicability.

#### **Sec. 7.5-11. - 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 Guilford 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 G.S. 14-288.13 and G.S. 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. The chairperson shall fully utilize all available emergency service and management agencies and coordinators.

(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, firemen 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

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preservation of public order and immediately necessary to serve the safety, health and welfare needs of people within the county.

(Ord. of 11-5-92, § 1)

**Sec. 7.5-12. - Proclamation imposing prohibitions and restrictions.**

(a) The chairperson of the board of commissioners by proclamation may impose the prohibitions and restrictions specified in section 7.5-13 through 7.5-18 of this article in the manner described in those sections. The chairperson may impose as many of those specified prohibitions and restrictions as he finds 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 serve the affected area. The chairperson shall retain a text of the proclamation and furnish upon request certified copies of it.

(Ord. of 11-5-92, § 2)

**Sec. 7.5-13. - 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 proclamation which shall be well publicized.

(Ord. of 11-5-92, § 3)

**Sec. 7.5-14. - 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.

(Ord. of 11-5-92, § 4)

**Sec. 7.5-15. - Restrictions on 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 purchase of any alcoholic beverage within the area of the county described in the proclamation. 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 geographical area described.

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(Ord. of 11-5-92, § 5)

**Sec. 7.5-16. - Restriction on 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) "Dangerous weapon or substance" means:

(1) ~~Any item described as a "Dangerous weapon or substance" as defined in G.S. 14-288.1. 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.

(4) Except that this article does not authorize prohibitions or restrictions on lawfully possessed firearms or ammunition. As used in this article, "firearm" has the same meaning as it does under G.S. 14.409.39(2).

(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.

(Ord. of 11-5-92, § 6)

**Sec. 7.5-17. - Restriction on 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 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.

(Ord. of 11-5-92, § 7)

**Sec. 7.5-18. - Activities, etc., prohibited or restricted.**

The following activities or conditions may be prohibited or restricted:

- (1) Movements 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.

(Ord. of 11-5-92, § 8)

**Sec. 7.5-19. - 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.

(Ord. of 11-5-92, § 9)

**Sec. 7.5-20. - Superseding and amending proclamations.**

The chairperson, in his/her discretion, may invoke the restrictions authorized by this article in separate proclamations and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in section 7.5-12.

(Ord. of 11-5-92, § 10)

**Sec. 7.5-21. - Termination of proclamation.**

Any proclamation issued under this article shall expire 5 days after its last imposition unless sooner terminated in writing under the same procedures set forth in section 7.5-12 for proclamations.

(Ord. of 11-5-92, § 11)

**Sec. 7.5-22. - Exercise of powers in absence or disability of chairman.**

In case of the absence or disability of the chairperson, the vice-chairperson 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 chairperson.

(Ord. of 11-5-92, § 12)

**Sec. 7.5-23. - Penalty for violation.**

Except as provided in section 7.5-16, any person violating any prohibition or restriction imposed by a proclamation authorized by this article shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$500.00 and/or imprisonment not exceeding 30 days, as provided by G.S. 14-4.

(Ord. of 11-5-92, § 13)

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**Sec. 7.5-24. - Territorial applicability.**

This article shall not apply within the corporate limits of any municipality or within the area of the county over which the municipality has jurisdiction to enact general police power ordinances unless the municipality by resolution consents to this application or the mayor of the municipality has requested its application.

(Ord. of 11-5-92, § 15)