



Town of Southern Shores

"A Town of Volunteers"

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Ordinance # 01-06-013

AN ORDINANCE TO AMEND THE TOWN CODE OF THE TOWN OF SOUTHERN SHORES

BE IT ORDAINED, by the Council of the Town of Southern Shores, North Carolina, that the Town Code of the Town of Southern Shores be amended as follows:

PART I. Chapter 12 of the Code of Ordinances of the Town of Southern Shores is hereby renamed "Emergency Management".

PART II. Sections 12-1 through 12-4 inclusive, entitled "Hurricane And Storm Reconstruction And Redevelopment", is hereby designated as "ARTICLE III, HURRICANE AND STORM RECONSTRUCTION AND REDEVELOPMENT" and renumbered as Sections 12-29 through 12-32 inclusive.

PART III. A new Article in Chapter 12 designated "Article I, "EMERGENCY MANAGEMENT" is adopted to read as follows:

Article I EMERGENCY MANAGEMENT

Sec. 12-1. Short Title

This ordinance shall be known and may be cited and referred to as "Emergency Management Ordinance for the Town of Southern Shores."

Sec. 12-2. Intent and Purpose

1. It is the intent and purpose of this Ordinance to establish an office that will insure the complete and efficient utilization of all of the Town of Southern Shores resources to combat disaster resulting from disasters as defined herein.
2. The Town of Southern Shores Emergency Management Team will be the coordinating agency for all activity in connection with Emergency Management within the municipality. It will be the instrument through which the Southern Shores Town Council may exercise the authority and discharge the responsibilities vested in them during disaster emergencies.
3. This Ordinance will not relieve any Town Department of the moral responsibilities or authority given to it in the Town Charter or by local ordinances, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.

Sec. 12-3. Definitions

The following definitions shall apply in the interpretation of this Article:

- (a) "Emergency Management" is the basic government function of maintaining the public peace, health and safety during an emergency. This term shall include plans and preparations for protection and relief, recovery and rehabilitation from effects of a disaster as defined herein.
- (b) "Disaster" includes but is not limited to extraordinary fire, flood, storm, epidemic, accident, chemical spill or other impending or actual calamity endangering or threatening to endanger health, life or property of constituted government.
- (c) "Emergency Management Forces" shall mean the employees, equipment and facilities of all Town departments, board, councils, institutions and commissions; and in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.
- (d) "Volunteer" shall mean contributing a service, equipment or facilities to the Emergency Management Team without remuneration.
- (e) "Emergency Management Volunteer" shall mean any person duly registered, identified and appointed by the Town Manager and assigned to participate in the Emergency Management activity.
- (f) "Regulations" shall include plans, programs and other emergency procedures deemed essential to emergency management.

Sec. 12-4. Organization and Appointments

1. The organization shall consist of the following:

- (a) An agency of Emergency Management within the Administrative department of the Town of Southern Shores government under the direction of the Southern Shores Town Council. The head of the Southern Shores Emergency Management Team shall be the Town Manager, and such assistants and other employees as are deemed necessary for the proper functioning of the Team will be appointed or contracted.
- (b) The employees and resources of all Southern Shores department, boards, institutions, and councils shall participate in the emergency management activities. Duties assigned to a Town department shall be the same as, or similar, to the normal duties of the department, where possible.
- (c) Volunteer and contracted personnel and agencies offering service to, and accepted by the Town.

2. The Town Council shall designate and appoint a Deputy Town Manager to assume the emergency duties of the Town Manager in the event of his/her absence or inability to act.

Sec. 12-5. Day to Day Duties and Responsibilities of the Town Manager

The Town Manager shall be responsible to the Southern Shores Town Council in regard to all phases of emergency management activity. The Town Manager shall be responsible for the planning, coordination and operation of the Emergency Management activities in Southern Shores. He/she shall maintain liaison with the County authorities and the authorities of nearby political subdivisions so as to insure the most effective operation of the Emergency Management plan. The Town Manager's duties shall include, but not be limited to, the following:

- (a) Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the Town of Southern Shores for Emergency Management purposes.
- (b) Development and coordination of plans for the immediate use of all facilities, equipment, manpower and other resources of the Town for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety, and welfare.
- (c) Negotiating and concluding agreements or contracts with owners or persons in control of building or other property and resources for the use of such building or other property and resources for the Emergency Management purposes and designating suitable buildings as public shelters of last resort.
- (d) Through public informational programs, educating the populace as to actions necessary and required for the protection of their persons and property in case of disaster as defined herein, either impending or present.
- (e) Conducting public practice alerts within Southern Shores alone or in connection with Countywide alerts, to insure the efficient operation of the Emergency Management forces of Southern Shores and to familiarize Southern Shores residents with Emergency Management regulations, procedures and operations.
- (f) Coordinating the activity of all other public and private agencies of the Town of Southern Shores engaged in any Emergency Management activities.

Sec. 12-6. Emergency Management Plan

1. The Town Manager shall prescribe in the emergency plans those positions within the Comprehensive Emergency Management plans shall be adopted and maintained by resolution of the Southern Shores Town Council. In the preparation of these plans as it pertains to municipal organization, it is intended that the services, equipment and facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by these plans and to maintain their portions of the plans in a current state of readiness at all times. These Plans shall have the effect of law whenever a disaster, as defined in this Ordinance, has been proclaimed.

2. The Town Manager shall prescribe in the emergency plans those positions within the disaster organization, in addition to his/her own, for which lines of succession are necessary. In each instance the responsible person will designate and keep on file with the Town Manager current list of persons as successors to his/her position. The list will be in order of succession and will nearly as possible designate persons best capable of carrying out all assigned duties and functions.
3. Each service chief and department head assigned responsibility in the Plans shall be responsible for carrying out all duties and functions assigned therein. Duties will include the organization and training of assigned employees or volunteers. Each chief shall formulate the Standing Operating Procedure to implement the plans for his service.
4. Amendments to these Plans shall be submitted to the Town Manager. If approved, the Town Manager will then submit the amendments to the Southern Shores Town Council with his/her recommendation for their approval. Such amendments shall take effect from the date of approval.
5. When a required competency or skill for a disaster function is not available within government, the Town Manager is authorized to seek assistance from persons outside of government. The assignment of duties, when of a supervisory nature, shall also include the granting of authority for the persons so assigned to carry out such duties prior to, during, and after the occurrence of a disaster. Such services from persons outside of government may be accepted by local government on a volunteer or contracted basis. Such citizens shall be enrolled as Southern Shores Emergency Management volunteers or contracted personnel.

Sec. 12-7. No Municipal or Private Liability

1. This ordinance is an exercise by the Town of Southern Shores of its governmental functions for the protection of the public peace, health, and safety, and neither the Town of Southern Shores nor agents and representatives if some, 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 Ordinance, shall be liable for any damage sustained to persons or property as the result of said activity.
2. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the Town of Southern Shores the right to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice disaster situation 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 loss of, or damage to, the property of such person.

Sec. 12-8. Implementation

Upon proclamation of a State of Emergency the comprehensive Emergency Management Plans shall be implemented immediately to the extent determined by the Mayor and Town Council.

Secs. 12-9. —12-12. Reserved.

PART IV. A new Article in Chapter 12 designated "Article II. STATE OF EMERGENCY" is adopted to read as follows:

Article II. STATE OF EMERGENCY

Sec. 12-13. State of Emergency; Restrictions Authorized

1. 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.
2. If 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, the mayor is hereby authorized and empowered under section 14-288.12 of the General Statutes 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 hereinafter authorized.
3. The mayor 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 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 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.

Sec. 12-14. Proclamation Imposing Prohibitions and Restrictions

1. The mayor by proclamation may impose the prohibitions and restrictions specified in Sections 12.15 through 12.20 of this chapter in the manner described in those Sections. The mayor may impose as many of those specified prohibitions and restrictions as he finds are 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 his findings in the proclamation.
2. 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.

Sec. 12-15. Curfew

1. 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 twenty-four (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.
2. Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the mayor by proclamation removes the curfew.

Sec. 12-16. Restrictions on Possession, Consumption or Transfer of Intoxicating Liquor.

The proclamation pursuant to this chapter may prohibit the possession or consumption of any intoxicating liquor, including beer and wine, other than on one's own premises, and may prohibit the transfer, transportation, sale or purchases of any intoxicating liquor within the area of the town described in this 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.

Sec. 12-17. Restrictions on Possession, Transportation and Transfer of Dangerous Weapons and Substances

1. The proclamation pursuant to this chapter may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance. 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.
2. "Dangerous weapon or substance" means:
 - (a) Any deadly weapon, ammunition, incendiary device, explosive, gasoline or other instrument or substance designed for a use that carries threat of serious bodily injury or destruction of property;
 - (b) 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;
 - (c) Any part or ingredient in any instrument or substance included above.
3. If imposed, the restrictions shall apply throughout the jurisdiction of the town or such part thereof designated in the proclamation.

Sec. 12-18. Restriction on Access to Areas

1. 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 Section, in violation of any order, clearly posted notice or barricade indicating that access is denied or restricted.
2. 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.

Sec. 12-19. Evacuation 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 7-6.

Sec. 12-20. Prohibitions and Restrictions Generally

The proclamation pursuant to this chapter 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;
- (c) "Price gouging", 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 increased cost. Any restrictions imposed under this paragraph shall extend for a period of ninety (90) days following the date of the declaration of the state of emergency unless sooner terminated by proclamation or resolution.
- (d) 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. 12-21. Amendments of the Proclamation

The mayor may amend or extend the proclamation under this chapter from time to time, making such modifications as he would have been authorized to include in the original proclamation. The proclamation shall expire five (5) days after its last imposition unless sooner terminated.

Sec. 12-22. Removal of Prohibitions and Restrictions

The mayor shall by proclamation remove the prohibitions and restrictions under this chapter as the emergency no longer requires them, or when directed to do so by the Town Council.

Sec. 12-23. Separate and Superseding Proclamations

The mayor in his discretion may invoke the restrictions authorized by this chapter in separate proclamations, and may amend any proclamation by means of a superseding proclamation.

Sec. 12-24. Absence or Disability of Mayor

In case of the absence or disability of the mayor, the mayor pro tempore or such other person as may be designated by the Town Council shall have and exercise all of the powers given the mayor in this chapter.

Secs. 12-25. —12.28. Reserved.

PART V. A. Paragraph (b) of Section 1-6, "General Penalty;" of Chapter 1, "General Provisions", is hereby amended by adding a new subparagraph (7) to read as follows:

(7) Chapter 12, Sections 12-13 through 12-20.

B. Paragraph (d) of Section 1-6, "General Penalty;" of Chapter 1, "General Provisions", is hereby amended by amending subparagraph (8) to read as follows:

(7) Chapter 12, Section 12-31.

PART VI. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART VII. If this ordinance or the application of this ordinance to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable.

PART VIII. This ordinance shall be in full force and effect from and after the 5th day of June 2001.

Paul Seibeland
Mayor

ATTEST:

Carrie Gordon
Town Clerk

Date: 6/5/01
Vote: 4 Ayes 0 Nays

Approved as to form:

Thomas J. [Signature]
Town Attorney