CHAPTER ___ STATE OF EMERGENCY

SECTION 1. AUTHORITY

Pursuant to NCGS Chapters 130A and 153A, and other appliable law, Caldwell County hereby establishes this Ordinance.

SECTION 2. DEFINITIONS

Board means the Caldwell County Board of Commissioners.

County means Caldwell County, North Carolina.

NCGS means the North Carolina General Statutes.

Person means any individual, corporation, firm, partnership, association, or other legal entity.

State means the State of North Carolina.

State Law means the laws, regulations, and rules of North Carolina.

SECTION 3. STATE OF EMERGENCY; RESTRICITON AUTHORIZED

(a) A State of Emergency shall be deemed to exist whenever the Chair of the Board makes a finding and declaration that an emergency exists. Emergency means (i) any man-made disaster including any condition following an attack by an enemy or foreign nation upon the United States, resulting in substantial damage to property or injury to persons, and may include the use of bombs, missiles, shell fire, or nuclear, radiological, chemical, or biological means or other weapons or by overt paramilitary actions; terrorism, foreign and domestic; cyber incidents; and any industrial, nuclear, or transportation accident, explosion, conflagration, power failure, resources shortage, or other condition such as sabotage, oil spills, and other injurious environmental contaminations that threaten or cause damage to property, human suffering, hardship, or loss of life; (ii) any natural disaster including any hurricane, tornado, storm, flood, high water, earthquake, drought, fire, communicable disease of public health threat, or other natural catastrophe resulting in damage, hardship, suffering or possible loss of life and (iii) otherwise defined in NCGS 166A-19.3(6) or other applicable statutes.

(b) In the event of an existing or threatened State of Emergency endangering the lives, safety, health and welfare of people within the County or any part thereof, or threatening damages to or destruction of property, the Chair of the Board is hereby authorized and empowered under NCGS 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 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.

Within 48 hours of the issuance of the State of Emergency declaration, the Chair shall contact each member of the Board and ensure they have been advised of the declaration. Upon request of any commissioner, if the declaration remains in effect, the Chair shall call an emergency meeting or a special meeting of the Board to discuss the reason for the issuance of the declaration, its provisions and expected duration.

(c) The Chair 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 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, firefighters and other public employees, rescue personnel, 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 entities 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 4. DECLARATION IMPOSING PROHIBITION AND RESTRICTIONS

(a) The Chair of the Board, by declaration, may impose the prohibitions and restrictions specified in Sections 5 through 10 of this Chapter in the manner described in those Sections. The Chair may impose as many of those specified prohibitions and restrictions necessary or appropriate, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The Chair shall recite the findings in the declaration.

(b) The declaration shall be in writing. The Chair must take reasonable steps to give notice of the terms of the declaration to those affected by it, including the (i) posting of a signed copy of the declaration on the County website and (ii) submittal of notice and a signed copy of the declaration to the NC Department of Public Safety Web EOC critical incident management system. The Chair must send reports of the substance of the declaration to the mass communications media which serve the affected area. The Chair and Clerk to the Board shall retain a copy of the declaration and upon request, furnish certified copies of it.

SECTION 5. EVACUATION

The Chair may direct and compel the voluntary or mandatory evacuation of all or part of the population of the 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 in the declaration or in a subsequent declaration which shall be publicized.

SECTION 6. CURFEW

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 Chair may exempt from some or all the curfew restrictions classes of people whose exemption the Chair finds necessary for the preservation of public health, safety, and welfare. The declaration shall state the exempted classes and the restrictions from which each is exempted.

SECTION 7. 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 8. RESTRICTION ON POSSESSION, TRANSPORTATION, AND TRANSFER OF DANGEROUS WEAPONS AND SUBSTANCES

(a) The declaration may prohibit the transportation or possession, except on one's own premises, or the sale or purchase of any dangerous weapon or substance. The Chair may exempt from some or all, the restricted classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is necessary to the preservation of the public health, safety, and welfare. The declaration shall state the exempted classes and the restrictions.

(b) Dangerous weapon or substance means:

1. Any deadly weapon, ammunition, explosive, incendiary device, radioactive material, or device as defined in State Law,

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 capable of being used to inflict serious bodily injury or destruction of property.

3. Any other illegal substance under State Law.

(c) Notwithstanding anything in this Chapter 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 NCGS 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 the term used in NCGS 14-409.39(3): a pistol, revolver, or other gun that has a short stock and is designed to be held and fired using 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 9. 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 access is denied or restricted.

(b) Areas to which access is denied or restricted shall be designated by the Sheriff or subordinates or other law enforcement officer when directed in the declaration to do so by the Chair. When acting under this authority, the Sheriff or subordinates may restrict or deny access to any area, street, highway, or location within the County if the 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 10. PROHIBITION OR RESTRICTION ON MOVEMENT, OPERATION, OR ACTIVITIES

Depending on the type of emergency, the declaration may include restrictions or prohibitions on any or all the following:

(a) Movement of people in public places; and

(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, within the area designated in the declaration or property during the State of Emergency.

SECTION 11. TERMINATION OR REMOVAL OF PROHIBITIONS AND RESTRICTIONS

By declaration, the Chair shall 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.

SECTION 12. SUPERSEDING AND AMENDATORY DECLARATION

The Chair has discretion to invoke the restrictions authorized by this Chapter in a separate declaration and may amend any declaration by means of a superseding declaration in accordance with the procedures set forth in this Chapter.

SECTION 13. TERRITORIAL APPLICATION

This Chapter applies throughout the County, outside of the municipalities except where a municipality's mayor or governing body has authorized the County to enforce this Chapter within the municipality.

SECTION 14. PENALTY

Any Person violating this Chapter, or any Section thereof, shall be guilty of a Class 3 misdemeanor and shall be fined not more than $500.00, or imprisoned for not more than 30 days, or both. Each occurrence of a violation shall be treated as a separate occurrence.

SECTION 15. PERIODIC REVIEW

The Caldwell County Emergency Management Coordinator will review the State of Emergency Ordinance procedure on an annual basis; as well as perform an analysis of the procedure's effectiveness in an After-Action Report of a declared State of Emergency.