

## **SCOPE OF AUTHORITY**

**GENERAL:** In North Dakota, authority for evacuating persons from a threat is prescribed by state law as listed below:

### **Evacuation Authority of the Governor**

- The North Dakota Disaster Act of 1985, [North Dakota Century Code Chapter \(NDCC\) 37-17.1](#)
- During the state of emergency or disaster the governor has the authority to direct and compel (that is forcibly remove) the evacuation of all or part of the population from any stricken or threatened area within the state if the action is necessary for the preservation of life or other disaster mitigation, response or recovery.

### **Evacuation and Sheltering Authority of County Commissioners and Mayors**

- All county commissioners and mayors have the authority to direct, but not to compel, evacuation within their jurisdiction in the event of a disaster emergency. The authority of county and municipal elected officials should be exercised after a local disaster or emergency has been declared by the county or municipal governing body upon finding that a disaster has occurred or is imminent.
- In the event of the need for sheltering, the Chief Elected Official will delegate authority to the Social Services representative, based upon a recommendation to shelter by the Incident Commander. The Shelter Supervisor, likely a representative from American Red Cross, Social Services or a School Superintendent (dependent of the Red Cross Shelter Models), will then be directed to activate shelters.

### **Evacuation Authorization**

1. **DELEGATION OF AUTHORITY.** Before implementing this plan, if the area of concern is outside the jurisdictional authority of the designated Incident Commander, the affected jurisdiction(s) Chief Elected Official, e.g. mayor or county commissioner, must delegate decision-making and implementation authority.
2. **AUTHORITY:** Authority for evacuation during this incident is based on the following references:
  - A. **Legal Authority:** [North Dakota Century Code Chapter \(NDCC\) 37-17.1](#)
  - B. **Disaster Plan:** Burke County, Local Emergency Operations Plan
3. **RESPONSIBILITY:** The agency responsible for planning, implementing, and managing an evacuation during this incident is identified as the:
4. **INCIDENT COMMANDER:** I have determined the nature of this emergency may pose significant threat to the health and safety of persons within the area, added/revised objectives per the threat (see p. 2) and revised/edited/inputted the implementation plan (see pages 34-42).

A. The affected Chief Elected Official(s) is/are requested to review the attached plan, initiate necessary proclamations or declarations, and grant extraordinary authority for me to implement elements of the evacuation plan as conditions warrant.

**OR**

B. **The nature of this emergency does not permit prior authorization of evacuation through normal channels. I order the immediate implementation of evacuation efforts as noted in the attached plan (See Forms – Emergency Evacuation Plan.)**

**OR**

C. The evacuation was ordered during the Initial Attack of this incident and the attached plan documents the decisions for that action.

---

SIGNATURE and TITLE of INCIDENT COMMANDER

---

DATE and TIME

5. **CHIEF ELECTED OFFICIAL(S):** As the official(s) having legal responsibility for the approval of evacuations within this jurisdiction:

A. The *Incident Evacuation Plan* has been reviewed, necessary proclamations or declarations have been completed, and the Incident Commander is hereby granted authority to implement elements of the plan as conditions warrant.

**OR**

B. The *Incident Evacuation Plan* has been reviewed, and it is my/our decision to withhold approval of the Incident Commander's request for authority to implement elements of the plan. The basis for this decision is attached. This decision may be reviewed and amended as conditions warrant.

**OR**

C. I/we have been advised of the Incident Commander's use of extraordinary authority to proceed with evacuation. The basis for that decision has been reviewed and I/we  do  do not authorize continued evacuation efforts.

---

SIGNATURE and TITLE

---

DATE and TIME