



EMERGENCY MANAGEMENT ORDINANCE

HOKE COUNTY, NC.

ADOPTED

JULY 2025

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Chapter 1.

IN GENERAL

Section 1.1 Title

This ordinance shall be known as the “Emergency Management and Disaster Ordinance of Hoke County, North Carolina,” hereinafter referred to as "the Ordinance."

Section 1.2 Intent of the Ordinance

(1) The intent of this ordinance is to prescribe regulations outlining the execution of emergency management within the County of Hoke and the authority to respond, recover, mitigate, prepare, intervene, command, and control all-hazard incidents and events.

(2) This ordinance shall be in effect within the corporate limits of any municipality within Hoke County if requested by the governing body of the municipality and approved by the Board of County Commissioners.

(3) Hoke County Board of Commissioners delegates the responsibility of command and control of all emergency and disaster incidents and events within the jurisdiction of Hoke County to the Director of Emergency Management, or their designee. Exceptions within the intent of this ordinance include municipalities, law enforcement activities, or activities otherwise enumerated and assigned to an entity by way of North Carolina General Statute.

(4) Hoke County Emergency Management shall coordinate with local, state, federal, and private stakeholders to address emergencies by protecting life and preservation of property and the environment.

(5) This ordinance shall provide protections to those directly or indirectly engaged in activities pertaining to or in support of emergency management as provided by NCGS §166A-19.60.

(6) Establish a fee schedule for facilities subject to reporting requirements detailed in the Environmental Planning and Community Right-to-Know Act (EPCRA).

(7) Subject those persons or responsible parties to civil penalties for unnecessary, whether negligent or accidental, releases of hazardous materials as defined by the Environmental Protection Agency and/or the Occupational Safety and Health Administration.

Section 1.3 Authority and Mission

(1) Pursuant to NCGS §166A-19.15, the Hoke County Director of Emergency Management, or their designee, shall have the express ability to utilize powers and duties within Hoke County for the purpose of preserving life safety, protection of property, and responder safety.

(2) Pursuant to NCGS §166A-19.15, the governing body of each county is responsible for emergency management within the geographical limits of such county.

(3) Pursuant to NCGS §166A-27, a person who causes the release of a hazardous material requiring the activation of a regional response team shall be liable for all reasonable costs incurred by the regional response team in responding to and mitigating the incident.

(4) Pursuant to NCGS §153A-121, a county may by ordinance define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the county; and may define and abate nuisances.

(5) Pursuant to NCGS §166A-19.31, a county may enact ordinances to empower their Boards to exercise certain powers and authorities to deal with states of emergency.

(6) Pursuant to NCGS §166A-19.22, contained in the North Carolina Emergency Management Act, authorizes counties to declare a state of emergency under conditions and following procedures contained in G.S. §166A-19.22.

(7) This article shall apply to any municipality upon specific request of the governing body of the municipality or their designee and consent of the Hoke County Board of Commissioners through an interlocal agreement pursuant to NCGS §160A-20. In such event, the Emergency Management Director shall have the same powers and duties with respect to the municipality as they do for Hoke County.

(8) To the extent not specifically enumerated herein, all authorities and powers conferred on the County pursuant to Chapter 166A, Chapter 36A, and Chapter 14 of the North Carolina General Statutes, and all similar provisions of state and federal law, are incorporated herein by reference.

(9) This article will not relieve any county department of the legal responsibilities or authority given to it in the county Charter or by local chapters, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.

The Emergency Management Director and/or designee is authorized to request state and federal assistance under NCGS § 166A-19.12 and coordinate resources under mutual aid compacts and federal emergency management assistance programs.

1.4 Conflict of Interest Clause

In accordance with NCGS § 160D-109, any officer, board member, or staff enforcing this ordinance shall disclose and recuse themselves from enforcement or decisions in which they have a financial conflict of interest.

Chapter 2. Responsible Agent

Section 2.1 Hoke County Emergency Management

(1) Hoke County Emergency Management shall maintain a list of specialized vendors for wrecker services, hazardous incident clean-up, environmental clean-up, and other special services needed to mitigate various incidents and events.

(2) The Emergency Management Director, or their written designee, shall have the ability to directly or indirectly contact specialized vendors used for any of the aforementioned services.

(3) Hoke County shall not absorb costs for special services. The special service provider is responsible for collecting payment from the parties responsible.

(4) The Emergency Management Director or their designee may request a special services vendor in the event the responsible party:

(5) Does not have a vendor readily available or contracted to respond within a reasonable amount of time as deemed acceptable by the Incident Commander or Emergency Management official.

(6) The Emergency Management Director or their written designee determines a different vendor is needed to ensure the safety, efficiency, and/or effectiveness of the operation.

(7) It is the purpose of this article to promote the health, safety, and welfare of the citizens of the county by protecting the land and the waters over which this country has jurisdiction from pollution by oil, oil products, oil by-products, and other hazardous substances. The county further declares that it is the intent of this article to support and complement applicable provisions of the Federal Water Pollution Control Act, 33 USC § 1251 et seq.

(8) It is the intent of this article that the Director of Emergency Management, or their written designee, shall have the authority to summarily abate or remedy hazardous materials discharged into the environment in such a manner as to endanger the health, safety, or welfare of the general public or in such a way as to constitute a public health nuisance.

Section 2.2 Tier II Fees

The Emergency Planning and Community Right-to-Know Act (EPCRA), also known as SARA Title III, contains regulations addressing the storage and release of hazardous materials, including the Tier II requirements. The Tier II fee schedule, assessed by the Hoke County Government, is separate from those fees assessed by the State of North Carolina. Further explanation is provided in the appendices of this ordinance. Tier II fees collected by Hoke County Government are designed to improve the Local Emergency Planning Committee (LEPC) of Hoke County. Funds will be used to purchase emergency equipment and/or training supplies. Surcharges shall apply to (1) per product.

Category	Schedule for Maximum Annual Quantity of total EPCRA Reportable Chemicals on Site	Annual Fee
A	Governmental Agency	\$0.00
B	Tier II Facility- 1 to 99,999 pounds	\$200.00
C	Tier II Facility- 100,000 pounds	\$300.00
D	Tier II Facility- 1,000,000 pounds or more	\$500.00
Category	Special Hazard Surcharges	Annual Surcharge
E	Extremely Hazardous Substance (EHS) Facility Surcharge, Telecommunications Industry	\$150.00
F	Extremely Hazardous Substance Facility Surcharge, Non-telecommunications Industry	\$500.00
G	Clean Air Act 112 (r) Risk Management Plan (RMP) Regulated Facility Surcharge	\$500.00
H	Treatment, Storage, and Disposal Facility (TSDF) Surcharge	\$1,000.00
I	Small Quantity Hazardous Waste Generator Surcharge	\$100.00
J	Large Quantity Hazardous Waste Generator Surcharge	\$250.00
K	Toxics Release Inventory	\$250.00

Chapter 3.

Enforcement Procedures

Section 3.1 Citations

Hoke County's authority to issue citations and collect fees is outlined in North Carolina General Statutes (NCGS) 153 and 166.

Authority to Issue Citations:

- NCGS 153A-123 grants counties in North Carolina the authority to define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens, including the ability to define and abate nuisances.
- This authority includes the power to issue citations for violations of county ordinances, regulations, or statutes related to public health, safety, and welfare.

Authority to Collect Fees:

- NCGS 153A-136 authorizes counties to establish and collect fees for services provided or regulatory activities conducted by the county government.
- This includes the ability to charge fees for permits, licenses, inspections, and other services rendered by county departments or agencies.

Section 3.2 Outline of the Cost of Fines

The specific cost of fees/fines charged by Hoke County may vary depending on the type of service or regulatory activity. However, the ordinance may include a schedule of fees/fines or reference to fee/fines structures established by the county government. Permit fees for construction, development, or land use activities.

The specific amounts of these fees would be determined by the Hoke County Board of Commissioners through the adoption of ordinances or resolutions establishing fine schedules.

To establish a fee schedule for fines, repeat offenses, and final notices related to emergency management violations in Hoke County, North Carolina, the following schedule can be implemented:

Section 3.3 Citations

Willful dumping/release of a hazardous material as defined by U.S EPA: List of List EPA 550-B-24-001 (less than 10 gallons)

First Offense.....	\$250.00
Second Offense.....	\$350.00
Third Offenses (Per each day that violation continues)	\$500.00

Willful dumping/release of a hazardous material as defined by U.S EPA: List of List EPA 550-B-24-001 (more than 10 gallons)

First Offense.....	\$500.00
Second Offense.....	\$750.00
Third Offenses (Per each day that violation continues)	\$1,000.00

Unintentional dumping/release of a hazardous material as defined by U.S EPA: List of List EPA 550-B-24-001 (less than 10 gallons)

First Offense.....	\$250.00
Second Offense.....	\$350.00
Third Offenses (Per each day that violation continues)	\$500.00

Willful dumping/release of a hazardous material as defined by U.S EPA: List of List EPA 550-B-24-001 (more than 10 gallons)

First Offense.....	\$500.00
Second Offense.....	\$750.00
Third Offenses (Per each day that violation continues)	\$1,000.00

Release of a pollutant into a waterway as defined by U.S EPA: List of List EPA 550-B-24-001

First Offense.....	\$500.00
Second Offense.....	\$750.00
Third Offenses (Per each day that violation continues)	\$1,000.00

Failure to maintain safe dwelling, property, curtilage, and/or open lot, field, or vacant area.

First Offense.....	\$250.00
Second Offense.....	\$350.00
Third Offenses (Per each day that violation continues)	\$500.00

Excess storage of hazardous materials that has contributed to a spill, leak, or other hazardous condition

Offense (Per each day that violation continues)	\$500.00
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Failure to maintain proper and safe storage of materials that contributed to a hazard or otherwise unsafe condition/environment.

Offense (Per each day that violation continues)	\$500.00
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Any violation incurring more than a year after issuance of the initial citation shall be treated as a first offense for purposes of establishing and imposing penalties.

Late Payment Penalty:

- (1) Late Payment Penalty: 10% of the total outstanding amount per month for each month the fine remains unpaid after the due date.

This fee schedule is designed to deter violations, encourage compliance with emergency management regulations, and cover administrative costs associated with enforcement actions. The fines increase for repeat offenses to emphasize the importance of adherence to emergency management ordinances and regulations. The late payment penalty incentivizes timely payment of fines to avoid additional financial burden on violators and administrative costs for the county.

Section 3.4 Entry Upon Land

The Emergency Management personnel for Hoke County directed to take part in any inspections, investigation or restoration are empowered upon presentation of identification with permission from land owner or authorized personnel on property.

Section 3.5 Discharges

- (1) Unlawful discharges. It shall be unlawful, except as otherwise provided in this division, for any person to discharge or cause to be discharged oil or other hazardous substances into or upon any waters or lands within the county, or into any sewer, surface water drain or other waters that drain into the waters of this county, regardless of the fault of the person having control over the oil or other hazardous substances, or regardless of whether the discharge was the result of intentional or negligent conduct, accident or other cause. Any discharge occurring in violation of this section constitutes a public health nuisance and is determined to be detrimental to the health, safety and welfare of the citizens of the county.
- (2) Exceptions. This section shall not apply to discharges of oil or other hazardous substances in the following circumstances:
 - (1) When the discharge was authorized by law, either statutory or regulatory.
 - (2) When any person subject to liability under this division proves that a discharge was caused by any of the following:
 - (1) An act of God.
 - (2) An act of war or sabotage.
 - (3) Negligence on the part of the United States government or the state or its political subdivisions, including the county.
 - (4) Any act or omission by or at the direction of a law enforcement officer, fire fighter or authorized emergency management forces for the purpose of ensuring the safety of the public.
- (3) Permits. Any person who desires or proposes to discharge oil or other hazardous substances onto the land or into the waters of this county shall first make application for and secure the permit required by G.S. 143-215.1, and shall file a copy of the permit with the department of emergency management prior to discharge.

Chapter 4.

Collection of Expenses

Section 4.1 Determination of Expenses

Upon completion of any oil or other hazardous substances removal or restoration project or activity or abatement conducted pursuant to the provisions of this division, each department of the county that has participated by furnishing personnel, equipment or material shall deliver to the emergency management department a record of the expenses incurred by the department.

Upon completion of any oil or other hazardous substances removal or restoration project or activity, the director of emergency management shall prepare a statement of all expenses and costs of the project or activity expended by the county and shall transmit this to the county manager. In accordance to NCGS 166A-19.15, section (e) Local Appropriations Authorized.

Section 4.2 Demand for Payment

Upon receipt of the statement of expenses and costs from the Director of Emergency Management, the county shall make demand for payment upon the person having control over the hazardous materials discharged to the land or waters of the county.

Section 4.3 Contested Charges

A person contesting a demand for payment made pursuant to Section 14 shall have ten days from receipt of the demand for payment to request that the matter be considered by the board of commissioners. The final decision of the board may be appealed to the superior court within 30 days of the date of that decision in an action in the nature of certiorari.

Appeals shall be submitted in writing within 10 days of receiving the notice of charges. The Board of Commissioners shall hold a public hearing and render a decision. This decision may be appealed to Superior Court within 30 days via writ of certiorari, pursuant to NCGS § 160D-1402.

Section 4.4 Collection

Any person having control of oil or other hazardous materials discharged to the land or waters of the county in violation of the provisions shall be directly liable to the county for the necessary cleanup cost derived from activities arising from such discharge. The county shall have a claim to recover from any and all such persons. If the person having control over the hazardous materials discharged shall fail or refuse to pay the sum expended by the county, the amount shall be a lien upon the land or premises where the discharge occurred, and shall be collected as unpaid taxes.

Section 4.5 Penalty

Any person violating any prohibition or restriction imposed by this chapter shall be guilty of a misdemeanor, punishable upon conviction by the maximum fine provided by G.S. 14-4.

Criminal penalties under NCGS § 14-4 shall apply only where the violation poses an immediate and willful threat to life, public health, or the environment, and after prior citation and failure to comply.

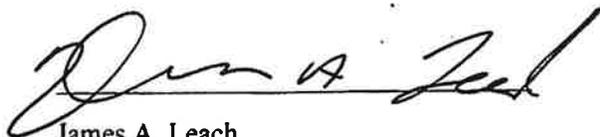
Section 4.6 Conflict of Laws

If any portion of this ordinance or the enforcement thereof is found to be preempted by state or federal law, such preemption shall not operate to invalidate the rest of the ordinance and the same shall remain in full force and effect. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4.7 Effective Date

This ordinance shall be effective upon adoption.

Adopted this the 1 day of July, 2025



James A. Leach

CHAIRMAN, HOKE COUNTY

BOARD OF COMMISSIONERS

Attest:



Shanetta Smith

Clerk to the Board of Commissioners



APPENDIX A

PROCLAMATION OF A COUNTY STATE OF EMERGENCY



Hoke County Emergency Operations Plan

1. Pursuant to the Hoke County Emergency Management Ordinance and Chapter 166A of the North Carolina General Statutes, and Article 36A, Chapter 14 of the North Carolina General Statutes, I have determined that a State of Emergency exists, as defined in the Hoke County Emergency Management Ordinance, exists in the County of Hoke resulting from, or in preparation for:

2. I, therefore, proclaim the existence of a State of Emergency in the County of Hoke.
3. I hereby order all county law enforcement officers, county employees and all other Emergency Management personnel subject to my control to cooperate in the enforcement and implementation of provisions of the County Emergency Ordinance which are set forth below.

(PROHIBITIONS FOUND BELOW. THOSE WITH CHECKED BOXES ARE NOW IN EFFECT.)

4. **Evacuation.** I have determined that, in the best interest of public safety and protection, it is necessary to evacuate the civilian population from _____ (Area). Citizens are free to use any type of transportation, but they are to use only _____ (Route) in leaving the area. Evacuation is to occur as soon as possible. Further proclamations concerning evacuation will be issued as needed.
5. **Curfew.** Unless a member of the County's law enforcement agency or the Emergency Management program, every person who is located within a

_____ radius of _____ is to be inside a house dwelling from the hours of _____ to _____.

- 6. **No Alcoholic Beverages.** There shall be no sale, consumption, transportation, or possession of alcoholic beverages during the State of Emergency in the County of Hoke, except possession or consumption is allowed on a person's own premises.
- 7. **No Firearms, Ammunition, or Explosives.** During the State of Emergency, there shall be no sale or purchase of any type of firearm or ammunition, or any possession of such items along with any type of explosive off owner's own premises.
- 8. **Execution of Emergency Plan.** All civilians and Emergency Management personnel are ordered to comply with the emergency plan.

9. This proclamation shall become effective immediately.

Proclaimed this the ____ day of _____ 20 ____, at _____ (am/pm).

James A. Leach
 CHAIRMAN, HOKE COUNTY
 BOARD OF COMMISSIONERS

Attest: _____

Shanetta Smith
 Clerk to the Board of Commissioners

PROCLAMATION TERMINATING COUNTY STATE OF EMERGENCY



Hoke County Emergency Operations Plan

1. On ____ (DATE) _____, at ____ (TIME) ____ (am/pm), I determined and proclaimed a local State of Emergency for the County of Hoke.
2. On ____ (DATE) _____, at ____ (TIME) ____ (am/pm), I ordered the evacuation of all civilians from the area, imposed a curfew, prohibited alcoholic beverages, firearms, ammunition and explosives, and ordered the execution of the emergency plan.
3. I have determined that a State of Emergency no longer exists in the County of Hoke.
4. I thereby terminate the proclamation of a local State of Emergency and all of the restrictions and orders therein.
5. This proclamation is effective immediately.

Proclaimed this the ____ day of _____ 20 ____, at _____ (am/pm).

James A. Leach
 CHAIRMAN, HOKE COUNTY
 BOARD OF COMMISSIONERS

Attest: _____

Shanetta Smith
 Clerk to the Board of Commissioners

APPENDIX B

DEFINITIONS

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bailee means any person who accepts oil or other hazardous substances to hold in trust for another for a special purpose and for a limited period of time.

Bona fide farm purpose means the production and activities relating to or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or a foreign market.

Carrier means any person who engages in the transportation of oil or other hazardous substances for compensation.

Department of Emergency Management means the county department of emergency management.

Designee and designees of either the department of emergency management or the director of emergency management may include but not be limited to any member of the emergency management forces.

Director of Emergency Management means the county director of emergency management or any of his designees.

Discharge means but shall not be limited to any emission, spillage, leakage, pumping, pouring, emptying or dumping of oil or other hazardous substances into waters of the county or upon the land of the county, but shall not include amounts less than the quantities that may be harmful to the public health or welfare as determined pursuant to G.S. 143-215.77A. However, this article shall not be construed to prohibit the oiling of driveways, roads or streets for reduction of dust or routine maintenance. The use of oil or other hazardous substances, oil-based products, or chemicals on the land or waters by any state, county or municipal government agency in any program of mosquito or other pest control, or their use by any person engaged in a bona fide farm purpose on a bona fide farm or accepted forestry practices, or in connection with aquatic weed control or structural pest and rodent control, in a manner approved by the state, county or local agency charged with authority over such uses, shall not constitute a discharge. The use of a pesticide regulated by the state pesticide board in a manner consistent with the state pesticide law, as amended, shall not constitute a discharge for purposes of this article.

Emergency Management Personnel means the employees, equipment and facilities of all county departments, boards, councils, institutions and commissions directed to take part in any inspection, investigation or restoration under this article; and in addition, it shall include all directed volunteer personnel, equipment and facilities contributed by or obtained from volunteer

persons or agencies and all municipal personnel, equipment and facilities contributed by or obtained from any municipality adopting this article pursuant to N.C. Gen. Stat. S 153A-122.

Having control over oil or other hazardous substances means but shall not be limited to any person using, transferring, storing or transporting oil or other hazardous substances immediately prior to a discharge of such oil or hazardous substances onto the land or into the waters of the county, and specifically shall include carriers and bailees of such oil or hazardous substances.

Oil means oil of any kind and in any form, including but specifically not limited to petroleum, crude oil, diesel oil, fuel oil, gasoline, lubrication oil, oil refuse, oil mixed with other waste, oil sludge, petroleum related products or by-products, and all other liquid hydrocarbons, regardless of specific gravity, whether singly or in combination with other substances.

Person means any and all natural persons, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, federal or state governments, or private or public corporations organized or existing under the laws of this state or any other state or county.

Public health nuisance means any discharge determined to be dangerous or prejudicial to the public health.

Premises means any real or personal property involved in a discharge contrary to the provisions of this article.

Restoration and restore means any activity or project undertaken in the public interest or to protect the public interest or to protect public property or to promote the public health, safety or welfare for the purpose of restoring any lands or waters affected by an oil or other hazardous substances discharge as nearly as is possible or desirable to the condition that existed prior to the discharge or to abate a public health nuisance.

Superior court means the county superior court.

Waters means any stream, river, creek, brook, run, canal, swamp, lake, reservoir, waterway, wetlands, or any other body or accumulation of water, surface or underground, public or private, natural or artificial, contained within, flowing through, or bordering upon this county.

Oil means oil of any kind and in any form, including but specifically not limited to petroleum, crude oil, diesel oil, fuel oil, gasoline, lubrication oil, oil refuse, oil mixed with other waste, oil sludge, petroleum related products or by-products, and all other liquid hydrocarbons, regardless of specific gravity, whether singly or in combination with other substances.

Person means any and all-natural persons, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, federal or state governments, or private or public corporations organized or existing under the laws of this state or any other state or county.

Public health nuisance means any discharge determined to be dangerous or prejudicial to the public health.

Premises means any real or personal property involved in a discharge contrary to the provisions of this article.

Restoration and restore means any activity or project undertaken in the public interest or to protect the public interest or to protect public property or to promote the public health, safety or welfare for the purpose of restoring any lands or waters affected by an oil or other hazardous substances discharge as nearly as is possible or desirable to the condition that existed prior to the discharge or to abate a public health nuisance.

Superior court means the county superior court.

Waters means any stream, river, creek, brook, run, canal, swamp, lake, reservoir, waterway, wetlands, or any other body or accumulation of water, surface or underground, public or private, natural or artificial, contained within, flowing through, or bordering upon this county.