

## **ORDINANCE NO. 110**

### **AMENDMENTS TO ORDINANCE NO. 50:**

#### ***PERQUIMANS COUNTY SOLID WASTE ORDINANCE***

#### **AMENDMENT NO. 1, DATED DECEMBER 2, 2024**

The following text added to the Perquimans County Solid Waste Ordinance (Ordinance No. 50) was approved by the Perquimans County Board of Commissioners at their Regular Meeting on December 2, 2024 as recorded in their Minute Book No. 16, page 4069.

#### **SECTION X. ABATEMENT OF SOLID WASTE AND PUBLIC HEALTH NUISANCES**

The purpose for this section is to promote the public safety, health, and welfare of the citizens of Perquimans County through regulation of public health nuisances in the county.

A) By the authority of the provisions of N.C. Gen. Stat. §§ 130A-309.61, 153A-121, 153A-123, and 153A-140 of the North Carolina General Statutes, the storage, accumulation or presence of solid waste on public or private property in the area of jurisdiction of this Ordinance which is:

1. A breeding ground or harbor for mosquitoes or other insects, snakes, rats, or other pests; or
2. A point of collection for pools or ponds of water; or
3. A point of concentration of gasoline, oil, or other flammable, toxic or explosive materials; or
4. A cause of offensive odors or health risks to others such as unburied domestic animals and stagnant water, or filthy privies and stables; or
5. So located that there is a danger of falling, sliding or turning over; or
6. A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces or metal, glass, or other rigid materials, or any uncovered well, open pit, unsecured vehicle, appliance, or building

is hereby proclaimed and declared to be unlawful and a public nuisance. Such public nuisance shall be subject to abatement as provided in this Ordinance, pursuant to N.C. Gen. Stat. § 153A-140 of the North Carolina General Statutes, which allows a county "to remove, abate, or remedy everything that is dangerous or prejudicial to the public health and safety."

Bona fide farms are exempt from regulation through this section.

B) Upon reasonable cause to believe that a public nuisance as defined above exists, the Board or its designee, and upon not less than ten (10) days' written notice to the occupant and owner of the property on which the alleged nuisance is located, shall make a determination of whether or not such nuisance does, in fact, exist. If the Board or its Designee makes a determination that a public nuisance exists, he shall enter and serve upon the owner and occupant an order to remove, abate or remedy the nuisance within a reasonable period of time, but not more than ninety (90) days.

Such order may be appealed by the owner or occupant to the County Manager as provided below:

1. Appeal. Any person who receives a notice of violation, or order to remove, abate, or remedy a nuisance may, within ten business days of the day the notice was received, submit a written appeal to the County Manager. The appeal notice shall specifically

state the reasons for the appeal with a copy of the notice of violation attached thereto. The owner may either rely on written materials or appear before the County Manager for a hearing at which he shall be heard in person or by counsel and may present arguments and evidence pertaining to the matter. The only issues for appeal are: (1) whether the person is the actual owner of the real property, or (2) whether the action or condition that serves as the basis of the notice is dangerous or prejudicial to public health or safety. The fact that the owner did not bring the nuisance to the property or does not have a possessory interest in the condition creating the nuisance is not a defense.

The County Manager shall within ten days of the date of the hearing or the date of the written appeal if a hearing is not requested, issue an order either canceling the notice or directing the owner to remove, abate, or remedy the identified nuisance.

Accrual and imposition of the civil penalties shall be stayed pending the appeal. However, there will be no stay for equitable remedies available to the County. If the decision of the Board's designee is affirmed, accrual and imposition shall resume. Any appeal not filed within ten (10) business days of the day notice was received shall be considered not timely.

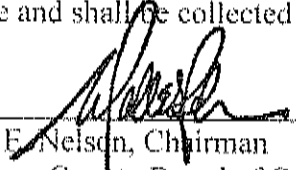
2. The County Manager may consider hardship as basis for extending the period for compliance up to six (6) months. In no case shall the County Manager indefinitely excuse compliance. An extension may be granted upon the appellant meeting two (2) of the four (4) following criteria:
  - a. appellant is at least sixty-five (65) years of age;
  - b. health problems documented by appellant's medical record which substantially affect the appellant's ability to comply with the ordinance;
  - c. severe weather that prevents appellant from complying within the original time frame;
  - d. taxable income below fifty percent (50%) of the County's current median income, as determined by the US Department of Housing and Urban Development, documented by appellant's latest tax return.
3. Appeals of County Manager Actions. Every decision of the County Manager shall be subject to review at the instance of any aggrieved party in the Superior Court by proceedings in the nature of a petition for writ of certiorari. Such proceedings in the Superior Court shall be initiated within thirty (30) days of the date the decision is approved. Appeals not filed within this thirty (30) day period are not timely. The Superior Court is authorized to stay enforcement of this ordinance during the pendency of an appeal from the decision of the Board of Commissioners upon a hearing and the posting of a bond sufficient to the Court which will adequately protect the interests of the County.

C) Upon failure of the owner or occupant of the property, or of the person responsible for placing such solid waste on the property to remove, abate or remedy the nuisance within the period the officer has allowed, pursuant to N.C. General Statute 153A-140 the Board or its Designee shall remove, abate or remedy the nuisance as provided in the order and charge the cost thereof to the owner and occupant. Perquimans County may exercise the right to hire a third party to remove

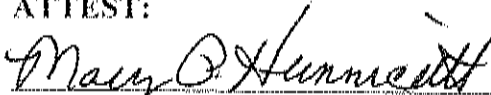
solid waste from the offending property and bill the offender for the cost, plus reasonable administrative fees. *See* Section 116 Right of Entry for Junk Car Ordinance (Ord. No 53):

For the purpose of enforcing the provisions of this article, the Perquimans County enforcement officer or his designee(s) may at all times during regular business hours, Saturdays, and legal holidays excepted, enter upon any premises within the county's jurisdiction, other than within any building actually occupied for a residence, for the purpose of determining whether or not the provisions of this article are being violated or for the purpose of determining whether or not any notice by the county requiring the abatement of the nuisance has been complied with."

If such expense is not paid by the owner or occupant within ten (10) business days, it shall be a lien upon the land or on premises where the nuisance arose and shall be collected as unpaid taxes.

  
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Wallace E. Nelson, Chairman  
Perquimans County Board of Commissioners

ATTEST:

  
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Mary P. Hunnicutt, Clerk to the Board

