

Chapter 19 - NUISANCES

Division 1. – General Provisions

Sec. 19-10. - Purpose.

The purpose of this chapter is to provide the minimum conditions which will protect and preserve the public health, safety, morality, order, property values, and welfare of the citizens of Perry, Georgia, as well as to maintain a healthful, clean and beautiful environment.

Sec. 19-11. – International Property Maintenance Code incorporated.

The International Property Maintenance Code, as adopted by the Georgia Department of Community Affairs, and as may be amended from time to time, is hereby adopted by City Council and incorporated as part of this chapter.

Sec. 19-12. - Responsibility of owner and tenant generally.

- (a) *Owner.* Each owner of premises shall be responsible for maintaining their premises in compliance with the provisions of this chapter. If the owner is not the occupant of the premises, the owner shall be accountable for the activities of the tenant, and thereby, the premises.
- (b) *Tenant.* Each tenant of premises shall be responsible for maintaining the premises under their control in compliance with the provisions of this chapter.

Sec. 19-13. – Storage of hazardous waste.

- (g) *Maintenance of hazardous waste prohibited.* Hazardous waste shall not be stored, buried, burned, or otherwise maintained on any premises, except on premises approved as an inert landfill or sanitary landfill in compliance with the Land Management Ordinance [Appendix A of the Perry City Code] and all applicable state, federal and city law.

Sec. 9-14. - Definitions.

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

Administrator means any authorized City of Perry personnel responsible for code enforcement within the city.

Derelict vehicle means any motor vehicle, trailer or semitrailer, or parts thereof, that was originally designed or manufactured to transport persons or property on a public highway, road, or street and that is junked, scrapped, dismantled, disassembled, or in a condition otherwise harmful to the public health, welfare, peace, and safety.

Garbage means the animal or vegetable waste resulting from the handling, preparation, cooking, or consumption of food.

Hazardous waste means any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal act which are in force and effect on February 1, 1998, codified as C.F.R. § 261.3, and any designated hazardous waste.

Nuisance means anything that causes hurt, inconvenience, or damage to another and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable man. (O.C.G.A. §41-1-1.)

Owner means any person, agent, operator, firm or corporation having a legal or equitable interest in a premises; or recorded in the Clerk of Superior Court of Houston County or Peach County, as applicable, as holding title to such premises; or otherwise having control of a premises, including the guardian of the estate of such person, and the executor or administrator of the estate of such person if ordered to take possession of the premises by a court.

Permittee means the contractor or other person to whom was issued any type of development permit, approval, certificate, or other form of authorization.

Premise means a lot, plot or parcel of land, easement or public way, including any structures and improvements thereon.

Private property means all land, and all improvements thereon, which is not owned by a governmental entity.

Public view means any area that is visible by a person standing on the ground in a public right-of-way, public park, or other publicly owned property.

Rubbish means combustible and noncombustible waste materials, except garbage; the term shall include, but is not limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree parts, yard trimmings, construction waste, furniture, appliances, metals, mineral matter, glass, crockery, and similar materials, as well as the residue from the burning of wood, coal, coke, and other combustible materials.

Scrap tire means a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

Tenant means a person, corporation, partnership or group whether or not the legal owner, occupying a premises or portion thereof.

Tire means a continuous solid or pneumatic rubber covering designed for encircling the wheel of a motor vehicle and which is neither attached to the motor vehicle nor a part of the motor vehicle as original equipment.

Used tire means a tire which has a minimum of 2/32 inch of road tread and which is still suitable for its original purpose but is no longer new. A tire retailer shall inventory and market used tires in substantially the same fashion as a new tire.

Water receptacle means tanks, barrels, urns, cans, boxes, bottles, tubs, tires, buckets, automobile casings or other items which permit the collection of standing water.

Division 2. – Rubbish, garbage and tires.

Sec. 19-20. – Rubbish and Garbage shall be properly contained.

- (a) Appropriate receptacles for the disposition of rubbish and garbage generated on any premises shall be provided and maintained by the owner or tenant.
- (b) Except as may otherwise be allowed, all rubbish and garbage shall be contained in an appropriate receptacle.

Sec. 19-21. - Construction and demolition sites.

- (a) All permittees and/or owners shall adhere to all provisions of this section.
- (b) On-site receptacles to effectively and securely handle the accumulation of all rubbish and garbage produced by those working on the site shall be installed and maintained during construction activity. All construction and demolition sites shall be kept in a litter-free condition.

- (c) Permittees shall implement erosion and sedimentation controls and control waste at the construction site such as discarded building materials, concrete truck washout, chemicals, rubbish and sanitary waste. All dirt, mud, silt, or any other earth deposited upon any public right-of-way as a result of construction and/or demolition shall be immediately removed by the permit holder as to prevent any detectable amount of accumulation which may tend to cause a threat to the public safety, property values, both real and personal, or good order of the city or environment.
- (d) Any construction supplies or materials, landscaping supplies or materials, or any other material deposited on a public road or right-of-way shall be removed on a daily basis, or immediately if the presence of such materials constitutes a threat to the public health or safety.
- (e) Rubbish or garbage shall not be buried on any property unless expressly and properly permitted for such activity. Nor shall rubbish or garbage be burned on any property unless the proper permit is secured from the Georgia Forestry Commission and/or the Perry Fire Department.

Sec. 19-22. - Storage of new, used and scrap tires.

- (a) It shall be unlawful to store tires, used tires, or scrap tires outside of an enclosed building or shipping type container, except as provided in this section.
- (b) Scrap tires shall handled in accordance with the provisions of O.C.G.A, § 12-8-20 et seq. Said provisions are hereby incorporated in this section as if set out in full herein.
- (c) No owner or tenant shall store more than 25 scrap tires anywhere, except as provided in O.C.G.A. § 12-8-40.1.
- (d) Used tires and scrap tires may be stored outside of an enclosed building or shipping type container on the premises of an authorized business within a cage not exceeding 100 square feet in area, and eight feet in height. Such cage shall be covered with a water proof top and be screened on all four sides. All tires stored outdoors shall comply with section 19-60.
- (e) New tires may be displayed on racks or stands outside of an enclosed building, provided they are stored inside after business hours.
- (f) Only one shipping type container or cage as described in subsection (d) shall be allowed per each premises and shall be located out of public view.

Division 3. - Vegetation

Sec. 19-30. Weeds grasses and plants declared a nuisance; exemptions.

- (a) It shall be unlawful to maintain any weeds, grasses or other plants exceeding eight (8) inches in height on any premises, subject to the provisions of this section.
- (b) Garden flowers, vegetables, ornamental trees and shrubs, and cultivated agricultural crops shall be exempt the height limit, except as noted in subsection (c) below.
- (c) Notwithstanding, subsection (b) above, all weeds, grasses, and other plants shall be maintained so as to provide free and full use of streets, sidewalks, rights-of-way, and street lights. Any plant that causes any obstruction to these facilities is subject to maintenance or removal by the City and or the Georgia Department of Transportation.
- (d) The provisions of this division shall apply only to property located within subdivisions of record in the office of the clerk of the superior court of Houston County or Peach County, as applicable and original city lots. These provisions shall not apply to undeveloped areas of un-subdivided lands.

Section 19-31. – Maintenance of easements and rights-of-way.

Owners and tenants shall be responsible for maintaining any easements which may exist on their premises and rights-of-way adjacent to their premises in accordance with the provisions of section 19-12.

Division 4. – Vehicles.

Sec. 19-40. - Derelict vehicles.

- (a) Pursuant to O.C.G.A. § 36-60-4, the city is authorized to provide by ordinance for the removal and disposal of derelict vehicles.
- (b) It shall be unlawful for any owner or tenant to keep any derelict motor vehicle, except within a fully enclosed building or structure or otherwise shielded or screened from public view by an opaque fence, wall, and or plant material, on any property unless properly zoned or permitted.
- (c) Any such derelict motor vehicle in violation of this section, whether such motor vehicle is on private property or public property, shall be subject to removal by the city and disposed of, in accordance with the procedures set forth in this chapter, when requested by the land owner or when such derelict motor vehicle is in such a condition that it constitutes a health or safety hazard or an unsightly nuisance.
- (d) The provisions of this section shall not apply to a licensed business which is regularly engaged as an automobile dealer, salvage dealer or scrap processor. The provisions of this section shall also not apply to any motor vehicle which is located within the premises of any junkyard complying with the laws of the State of Georgia relating to the licensing and regulating of motor vehicle junkyards.

Division 5. - Signs

Sec. 19-50. - Posting of signs on utility poles or other structures.

It shall be unlawful for any person to post or affix any notice, poster or other paper or device to any utility pole, lamppost, bench, waste receptacle, street furniture or structure except as may be authorized or required by law.

Sec. 19-51. - Sign control.

Unless authorized in section 19-9 of the Land Management Ordinance (Appendix A of the Perry City Code), no sign shall be installed, erected, or displayed on any premises or right-of-way.

Division 6. – Mosquito prevention.

Sec. 19-60. - Prevention of mosquitoes and other disease carrying organisms.

All premises shall be kept free of water receptacles and other articles that permit the holding of water which is not drained on a regular basis so as to prevent providing temporary breeding places for mosquitoes and other disease carrying organisms.

Division 7. – Reserved.

Division 8. – Enforcement, Remedies and Penalties.

Sec. 19-80. – Enforcement, general.

- (a) Subject to constitutional limitations and upon proper identification, the administrator shall be permitted to enter upon private property for the purpose of carrying out the provisions of this chapter.
- (b) Upon determination that a violation of this chapter exists, the administrator shall issue a written notice of violation to the person responsible for the violation or the owner of a derelict vehicle and to the owner of the premises. The notice of violation shall state the specific violation of this chapter, order the action necessary to correct the violation, and give a deadline by which the violation shall be corrected. The deadline shall be reasonable, based on the nature and intensity of the violation, but shall not exceed 30 calendar days, unless specifically provided in this division.
- (c) Written notice may be provided by personal delivery, by mail to the tenant and or owner reflected on the current property tax records of Houston/Peach County, by posting the violating premises/vehicle, and or posting a sign in the right-of-way adjacent to the violating premises/vehicle.
- (d) If the violation is not corrected by the deadline established in the notice of violation, or as agreed upon by the administrator, the administrator shall take appropriate action as provided in section 19-85 to correct or abate the violation and ensure compliance with this chapter.
- (e) Only two notices of violation will be issued for the same type of violation on the same premises within a calendar year. Third and subsequent violations of the same type on the same premises within a calendar year will be immediately addressed according to section 19-85.
- (f) Stormwater management is enforced per article 7 of the Land Management Ordinance (Appendix A of the Perry City Code).
- (g) If the nature of a violation of this chapter is such that an immediate threat to safety or health is evident, the administrator shall take any legal action necessary to correct or abate the threat.

Sec. 19-81. – Additional procedures for derelict vehicles.

- (a) Upon determination that a violation of division 4 of this chapter exists, the administrator shall issue a written notice of violation to the owner of the derelict vehicle and the owner of the premises on which the derelict vehicle is located. The notice of violation shall be consistent with the provisions of section 19-80(b), except that the deadline shall be 15 calendar days, or as agreed upon by the administrator.
- (b) In the event the owner of the vehicle cannot be determined for whatever reason, posting of the notice of violation in the right-of-way adjacent to the premises on which the derelict vehicle is located shall be deemed as notice to the vehicle owner.
- (c) For each derelict motor vehicle removed by the city or at the city's direction, the city shall keep a log identifying such vehicle and all steps involved in the removal and disposal of same.
- (d) In the event an owner or tenant of a premises containing a derelict vehicle request the removal of a derelict vehicle, such person shall sign a release allowing a towing company to remove the vehicle.

Section 19-85. – Remedies and penalties.

The city may use any combination of the following enforcement actions, remedies and penalties pursuant to city code section 1-10 to correct, stop, abate, and enjoin a violation of this chapter:

- (a) Citation noting violation. The administrator may issue a citation to the person responsible for the violation, owner of a derelict vehicle, and or the owner of property on which a violation exists, requiring appearance before the municipal court.
- (b) Abatement. The administrator may remove and dispose of a violation, or hire a third party to correct the violation. All costs associated with abatement shall be the responsibility of the owner, per the current city fee schedule.

- (c) Stop order. The administrator may issue and serve upon a person pursuing activities in violation of this chapter a stop work order requiring the person to stop all activities in violation of this chapter. No work or construction shall proceed after service of a stop work order.
- (d) Permit suspension or revocation. Any development permit, approval, certificate, or other form of authorization issued by the city may be suspended or revoked if the administrator determines that a violation of this chapter exists. Written notice of suspension or revocation shall be mailed or served upon the owner and or the permittee, or posted in a prominent location at the place of violation. No work or construction shall proceed after service of notice.
- (e) Civil remedies. In addition to all other remedies and penalties outlined in this chapter, the administrator may initiate an action or proceeding for injunction or mandamus or other appropriate action or proceeding to prevent, abate, or correct a violation of this chapter.
- (f) Remedies cumulative. The remedies provided in this chapter shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.
- (g) Criminal penalties. Criminal penalties shall be as provided by city code section 1-10. Each day a violation continues shall be deemed to be a separate offense. Remedies and penalties for stormwater management are contained in article 7 of the Land Management Ordinance (Appendix A of the Perry City Code).