

ORDINANCE NO. 941

**AN ORDINANCE AMENDING THE CITY CODE OF PERRY, IOWA, BY AMENDING
CHAPTER 105 (SOLID WASTE CONTROL)**

BE IT ENACTED by the City Council of Perry, Iowa:

SECTION 1. AMEND CHAPTER 105 (SOLID WASTE CONTROL). The Code of Ordinances of the City of Perry, Iowa, is amended by repealing Chapter 105 and adopting the new Chapter stated as follows:

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control is to provide for the sanitary storage, collection and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. "Collector" means any person authorized to gather solid waste from public and private places.
2. "Director" means the director of the State Department of Natural Resources or any designee.

(Code of Iowa, Sec. 455B.101[2b])

3. "Discard" means to place, cause to be placed, throw, deposit or drop.

(Code of Iowa, Sec. 455B.361[2])

4. "Dwelling unit" means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

5. "Garbage" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

(IAC, 567-100.2)

6. "Landscape waste" means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.

(IAC, 567-20.2[455B])

7. "Litter" means any garbage, rubbish, trash, refuse, waste materials or debris.

(Code of Iowa, Sec. 455B.361[1])

8. "Owner" means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
9. "Refuse" means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.
(IAC, 567-100.2)
10. "Residential premises" means a single-family dwelling and any multiple-family dwelling.
11. "Residential waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.
(IAC, 567-20.2[455B])
12. "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.
(IAC, 567-100.2)
13. "Sanitary disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.
(IAC, 567-100.2)
14. "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director.
(Code of Iowa, Sec. 455B.301)
15. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.
(Code of Iowa, Sec. 455B.301)

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

(IAC, 567-23.2[3a])

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3b])

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

4. Landscape and Yard Waste. The open burning of yard waste during periods designated by resolution of the Council. The burning of residential yard waste shall be restricted to private property, in the rear of the property, at least thirty (30) feet from any building inhabited by other than the landowner or tenant conducting the open burning. The burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth ($\frac{1}{4}$) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(Ord. 880 – Aug. 09 Supp.)

(IAC, 567-23.2[3d])

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire-fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

7. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director.

(IAC, 567-23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on the premises or burned on the premises in accordance with the provisions of Section 105.05(4) or placed in acceptable containers or bundled and tagged and either transported to a designated municipal yard waste collection site or picked up on the premises as the Council may designate. The Council shall designate from time to time by resolution approved containers for yard waste, approved bundling and tagging of yard waste, the purchasing sites for yard waste bags or tags and the price to be charged for yard waste bags or tags. The Council shall designate from time to time approved yard waste collection sites or a schedule of on-premises pickup times of yard waste. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)

105.09 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, “toxic and hazardous waste” means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.14[2] and 400-27.14[2])

105.10 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide

and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:
 - A. Residential. The City of Perry will provide one ninety-five (95) gallon container to all residential customers, with the exception of residences in Bar Jac Mobile Home Court. Each container will have a serial number linking it to a specific address. The containers are the property of the City of Perry and must remain at the address listed on the serial number. Customers are responsible for the replacement of lost or stolen containers at the purchase fee set by the City of Perry. Containers must be kept closed and shall be placed out for collection no more than twenty-four (24) hours prior to scheduled pickup and no more than twelve (12) hours after pickup.
 - B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers (dumpsters) approved by the City.
 - C. Multiple Family. Any person owning or managing a multiple family dwelling unit containing three (3) or more apartments or dwelling units shall provide and maintain at such person's own expense metal bulk storage containers (dumpsters) approved by the City. One (1) one and one-half (1 ½) yard dumpster is required for every four (4) apartments or dwelling units on the premises.
2. Storage of Waste Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. Each garbage dumpster shall be placed on an 8-foot by 6-foot concrete or asphalt pad which will allow for ease of movement and prevent difficulties of emptying dumpsters when the ground is wet, and the storage site shall be well drained and fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed on the front street, next to the curb or in the front driveway, unless otherwise specified by the City, no more than twenty-four (24) hours prior to and no more than twelve (12) hours after the regular garbage pickup for the owner or occupant of the premises served. The container must be placed with the opening facing the street, must have four (4) feet of clearance on all sides and must not be overfilled. Containers must not be placed on the street.

4. Permanent Structures. No permanent structures will be built on the terrace or parking to hold filled garbage containers until the time of their regularly scheduled pickup.
5. The collection of one ninety-five (95) gallon container will be considered a pickup. Any customer wishing to have an additional container must purchase the additional container and will be responsible for an additional monthly charge as set in the garbage collection fee resolution set by the Council.
6. Items not in the solid waste containers will not be collected. Items that will not fit in the approved container must be collected by a special pickup arranged by the property owner.

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.
5. Distribution of Advertising. Place, deposit, distribute, circulate or scatter any paper, advertisement, handbill, card, circular or wastepaper in or upon any public street, alley, public place, automobile or other vehicle parked upon any street or alley, yard or porch of any dwelling or vestibule or hallway of any building opening on any public street or alley, provided, however, that newspapers and advertising circulars folded therein may be distributed to the dwellings and/or buildings if they are either placed inside the building and/or dwelling, or if they are placed under some object of such weight that they will not be blown by the wind into any public street or alley.
6. Prohibited Items in Solid Waste Containers and Dumpsters. No person shall deposit in a solid waste container or dumpster automotive waste, including oil, gasoline or grease; concrete; shingles; construction debris; paint cans, unless dried out; tires; televisions; computer monitors; appliances; microwaves; containers of cooking oil; or any toxic or hazardous waste listed in Section 105.09.

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Metro Park West Landfill are hereby designated as the official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.

105.13 RECYCLING. The City shall provide large bulk recycling containers (dumpsters) for the disposal of certain recyclable solid waste materials generated within the City.

SECTION 2. REPEALER. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be effect from and after its final passage, approval and publication as provided by law.

Final Passage of Ordinance Number 941 adopted by the City Council of Perry, Iowa, the 18th day of June, 2018.

/s/ John Andorf, Mayor

ATTEST:

/s/ Paula Rychnovsky, City Clerk