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GENERAL PROVISIONS

§ 90.01 KEEPING CERTAIN ANIMALS.

It is unlawful for any person to keep or maintain any pig pen, pig sty, chicken coop or chicken park or any other fowl in the same within 200 feet of any dwelling house of any person, other than the owner of the pig pen, pig sty, chicken coop or chicken park.

(Prior Code, § 3-1) (Ord. 415, § 1; Ord. 498, § 1) Penalty, see § 90.99

§ 90.02 KEEPING OTHER CERTAIN ANIMALS.

It is unlawful for any person to keep, harbor or maintain any cow, horse, sheep, goat or any of their offspring within 200 feet of any dwelling house of any person.

(Prior Code, § 3-2) (Ord. 415, § 1; Ord. 498, § 1) Penalty, see § 90.99

§ 90.03 KEEPING CERTAIN ANIMALS; EXCEPTION.

It is unlawful for any person to permit any animal or fowl mentioned in §§ 90.01 or 90.02 to go within 200 feet of any occupied dwelling except when riding a horse to, from or along any roadway within the city.

(Prior Code, § 3-3) (Ord. 415, § 2; Ord. 498, § 1) Penalty, see § 90.99

§ 90.04 TRAPPING WILD ANIMALS PROHIBITED; EXCEPTION.

It is unlawful for any person to trap or catch any wild animal with traps within the city or upon or around any stream within the city; provided that, this section shall not prevent any person from trapping any rats or any other vermin which are not classed as “wild animals”.

(Prior Code, § 3-4) (Ord. 299, § I) Penalty, see § 90.99

LICENSING AND REGULATION OF DOGS AND DOMESTIC ANIMALS**§ 90.20 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL. Any non-human, vertebrate creature either domestic or wild.

ANIMAL CONTROL AUTHORITY. Any office or agency, public or private, designated by the Mayor as having the responsibility for administration of any or all provisions of this chapter.

ANIMAL SHELTER. Any facility operated by a humane society or municipal agency or its authorized agents for the purpose of impounding and/or caring for animals under the authority of this chapter and/or county and/or state laws.

AT LARGE. A domestic animal shall be deemed to be **AT LARGE** if off the premises of its owner and not under the immediate control of a responsible person. A domestic animal may also be deemed **AT LARGE** while on the owner's property if there is no visible means of restraint and the animal is able to leave the premises at will.

COMMERCIAL ANIMAL ESTABLISHMENT. Any pet shop, store, auction, riding school, stable, boarding and/or breeding facility, training facility or performing animal exhibitions, and/or any situation whereby money or fair trade is exchanged for the buying, selling, training, leasing, breeding, servicing and/or exhibiting of any animal.

DOMESTIC ANIMAL. Any poultry, cattle, horses, mules, swine, sheep, goats, dogs, cats, rabbits, mice, rats, guinea pigs, gerbils, chinchillas, hamsters or any animals or birds of the bovine, equine, ovine, caprine, porcine, canine, feline or avine species and/or their offspring.

ESTRAY or **STRAY.** Any domestic animal that does not, upon reasonable inquiry, appear to have an owner. A **STRAY** shall also be any domestic animal turned over to the Animal Control Authority by a person other than the owner, without the owner's consent. A domestic animal seized by the Animal Control Authority, under the provisions of this chapter, may also be called a **STRAY** even though the owner may be known.

HEALTH OFFICER. The Lake County Health Commissioner or his or her duly authorized representative.

KENNEL. Any facility where any person engages in boarding, breeding, buying, letting for hire or selling of dogs and/or cats. Any facility or premises housing or keeping 4 or more cats and/or dogs over the age of 4 months shall be deemed a **KENNEL**.

OWNER. Any person having a right of property in a domestic animal or any person who keeps and/or harbors the animal. Any person who feeds, shelters or cares for a domestic animal for 3 days, or who permits it to be on or about property owned, occupied or controlled by him or her for a like period shall be known as the owner of the animal.

POULTRY. Any fowl known as turkeys, ducks, chickens, geese and/or any other feathered creature commonly known as a bird, fowl or poultry that is considered to be owned.

VICIOUS ANIMAL. Any animal that constitutes a physical threat to human beings or animals by virtue of specific training or demonstrated behavior. More than 1 attack of such a severity that, in the opinion of the Animal Control Authority, would be caused only by a vicious animal, shall be prima facie evidence of viciousness.

(Prior Code, § 3-5) (Ord. 1758, § 1(part))

§ 90.21 ENFORCEMENT AUTHORITY.

The Mayor is authorized and directed to administer this chapter and to cause to be made such annual enumerations of dogs and cats within the city as is deemed necessary to ensure proper enforcement of this chapter.

(Prior Code, § 3-6) (Ord. 1758, § 1(part))

§ 90.22 NOTICE OF COMPLAINT.

When a complaint is made against a citizen of Hobart, the Animal Control Authority shall investigate, to the best of its ability, each complaint. A notice shall be given to the citizen stating the nature of the complaint, the findings of the Animal Control Agent, and a possible remedy, if necessary.

(Prior Code, § 3-7) (Ord. 1758, § 1(part))

§ 90.23 WARNING OF VIOLATION.

The Animal Control Authority or a city police officer may issue a warning of violation if, upon investigation of a complaint, they deem the citizen to be in violation of a section or sections of this chapter.

(Prior Code, § 3-8) (Ord. 1758, § 1(part))

§ 90.24 DOGS RUNNING AT LARGE; PROHIBITED.

It is unlawful for any person owning or possessing any dog to permit the same to run at large.

(Prior Code, § 3-9) (Ord. 1758, § 1(part)) Penalty, see § 90.99

§ 90.25 DOMESTIC ANIMALS CREATING A NUISANCE; PROHIBITED.

It is unlawful for any person to allow his or her domestic animal to become a public nuisance. Excessive barking, whining or howling without apparent reason, molesting passers-by, chasing vehicles, attacking other animals, depositing excretory matter on property other than that of the owner, allowing the accumulation of feces on the owner's property and damaging property shall be deemed a nuisance.

(Prior Code, § 3-10) (Ord. 1758, § 1(part); Ord. 2006-06, § 1) Penalty, see § 90.99

§ 90.26 APPREHENSION AND IMPOUNDMENT.

The Animal Control Authority shall seize and impound any stray, unwanted or diseased domestic animal found at large in violation of this chapter. If the Animal Control Authority is unable after a reasonable effort to seize any vicious, wild, diseased, rabid or stray domestic animal, or any domestic animal that poses a threat of any kind to either itself or society, the Animal Control Authority or the city police may kill the animal in as humane a manner as possible. The Animal Control Authority shall not remove an animal confined on the private property of the owner unless the Animal Control Authority deems the animal to be in distress from natural causes or suffering from cruelty perpetrated by the owners or others. An animal on the property of the owner, but not confined, may be removed by the Animal Control Authority if, in the opinion of the Animal Control Authority and a city police officer, that animal poses a threat either to itself or society in general. (Prior Code, § 3-11) (Ord. 1758, § 1(part))

§ 90.27 IMPOUNDED ANIMALS.

(A) *Care of impounded animals.* Every domestic animal so impounded shall be cared for and fed by the Animal Control Authority until disposition is made thereof as directed. (Prior Code, § 3-12)

(B) *To be held for 4 days.* Any stray domestic animal received by the Animal Control Authority shall be held for 3 days from time of receipt, unless redeemed by the owner. Any animal received by the Animal Control Authority in a condition from wounds, injury or suspected disease of a severity so as to cause suffering may be destroyed immediately at the discretion of the Animal Control Authority. (Prior Code, § 3-13)

(C) *Record-keeping.* The Animal Control Authority shall maintain a complete record of all domestic animals destroyed. The Animal Control Authority and the city's Police Department shall submit a monthly report to the Mayor showing the work performed pursuant to the provisions of this chapter during the previous month. Copies of any month or months records may be made available to the Common Council upon written request by the head of the Council. (Prior Code, § 3-14)

(D) *Redemption; fees.* The owner of any domestic animal impounded pursuant to the provisions of this chapter may redeem it from the Animal Control Authority within 3 days from the time of its receipt by establishing ownership to the satisfaction of the Animal Control Authority, by securing a current city license tag and by paying current shelter and redemption fees. Failure to redeem the animal within 3 days of day of receipt may result in owner losing all rights in the animal. (Prior Code, § 3-15)

(E) *Redemption.* If any domestic animal impounded pursuant to this chapter is not redeemed by its owner within 3 days after the time of receipt, the domestic animal becomes the property of the Animal Control Authority. The animal may be made available for adoption as a pet at the discretion of the Animal Control Authority. (Prior Code, § 3-16)
(Ord. 1758, § 1(part))

§ 90.28 CONSENT OF OWNER REQUIRED FOR ADOPTION.

No domestic animal brought to the Animal Control Authority by its owner shall be made available for adoption if the owner has requested that the animal be humanely destroyed.

(Prior Code, § 3-17) (Ord. 1758, § 1(part))

§ 90.29 DOMESTIC ANIMALS WITH VICIOUS TENDENCIES, RABIES AND THE LIKE; NOT BE SOLD OR RELEASED.

No domestic animal that the Animal Control Authority suspects of being vicious, rabid or infected with a transmittable or debilitating disease shall be sold, released or permitted to be redeemed unless or until the Animal Control Authority is satisfied that it is safe to release the animal. Any vicious animal that has bitten someone and has been impounded by the Animal Control Authority shall not be released until such time as the owner has submitted satisfactory evidence to the Animal Control Authority that adequate provisions have been made to protect the public from the animal.

(Prior Code, § 3-18) (Ord. 1758, § 1(part))

§ 90.30 COLLECTION AND DISPOSITION OF DEAD DOMESTIC ANIMALS.

The Animal Control Authority shall collect and dispose of dead domestic animals whose owners are unknown found on the public grounds or highways of the city within the realm of their capabilities. Removal of animals that have laid so long as to be decomposed shall be transported by the Animal Control Authority to a place designated by city sanitation to be buried. Removal of extremely large domestic animals, i.e. cattle and horses, shall be accomplished by an outside service at the city's expense.

(Prior Code, § 3-19) (Ord. 1758, § 1(part))

§ 90.31 INJURED OR DEAD ANIMALS; RESPONSIBILITY FOR REMOVAL.

If owner can be located, that owner shall be responsible for that animal's removal and/or disposition and any costs incurred in such.

(Prior Code, § 3-20) (Ord. 1758, § 1(part))

§ 90.32 POISONING.

(A) It is unlawful for any person to administer poison to any domestic animal or to knowingly place or leave any poisonous substance in any place with intent to injure or kill any domestic animal.

(B) Nothing contained in this subchapter shall prohibit an owner from mercifully putting to death his or her own domestic animal, delivering it to a veterinarian or Animal Control Authority for destruction.

(Prior Code, § 3-21) (Ord. 1758, § 1(part)) Penalty, see § 90.99

§ 90.33 ABANDONING.

It is unlawful for any person to leave with an intent to abandon any domestic animal on any street, road, highway, public or private property.

(Prior Code, § 3-22) (Ord. 1758, § 1(part)) Penalty, see § 90.99

§ 90.34 INJURING OR KILLING.

It shall be unlawful for any person to wilfully injure, beat, abuse or run down with a vehicle any domestic animal. It is unlawful for any person to kill any domestic animal not owned by him or her except as may be expressly permitted by law.

(Prior Code, § 3-23) (Ord. 1758, § 1(part)) Penalty, see § 90.99

§ 90.35 PET LICENSES.

(A) *Generally.* It is unlawful for any person to own or harbor any dog or cat over the age of 6 months of age unless the animal is licensed by the city as provided in this chapter.

(Prior Code, § 3-24)

(B) *Duration.* All city pet licenses shall be effective for 12 months from the period beginning on January 1 and ending on December 31 of each calendar year.

(Prior Code, § 3-25)

(C) *Issuance.* City pet licenses shall be issued under the supervision of the city's Clerk-Treasurer at such places and at such times as may be designated by the Mayor.

(Prior Code, § 3-26)

(D) *Rabies inoculation required.* Current rabies vaccinations shall be required before issuance of a city pet license. Indiana state law shall be the determination for time period considered current.

(Prior Code, § 3-27)

(E) *Fee.* Every person owning or harboring a dog or cat within the city shall, on or before January 1 of each year or within 10 days of acquiring any such animal over the age of 6 months or within 10 days after any such animal becomes 6 months of age, obtain an annual city pet license for each animal so owned or harbored. The fees are as set out in the Fee Schedule of this code.

(Prior Code, § 3-28)

(F) *Fee exemption.* There shall be no fee charged for licenses issued for any dog trained as and actually used for a guide dog for blind or hearing impaired. Owners of these dogs or the owners' agents should obtain a city license yearly with no fee being charged.

(Prior Code, § 3-29)

(Ord. 1758, § 1(part))

§ 90.36 LICENSE TAG.

(A) *Transferability.* Individual city pet tags shall be attached to the animal for which they are issued and shall pass from 1 owner to another with the animal. Upon the change of ownership of a licensed animal, the new owner shall notify the city's Clerk-Treasurer, in writing, of the change in order that license records of the city may be properly adjusted. No tag shall be transferred from 1 animal to another.
(Prior Code, § 3-30)

(B) *Loss; fee for duplicate.* If any city license tag should be lost, the owner may procure a duplicate tag for use during the remainder of that year by making an application for same and paying a fee as set out in the Fee Schedule of this code to the city's Clerk-Treasurer.
(Prior Code, § 3-31)

(C) *Attachment.* It is unlawful for the owner of any dog or cat to permit the animal off the owner's premises without having its individual city license tag attached to a collar or harness worn by the pet. City pet tags shall not be obscured or defaced in any way.
(Prior Code, § 3-32)

(D) *Removal.* It is unlawful for any person other than the owner of a licensed animal, or that owner's agent, to remove a collar with a city tag from the animal, except that the Animal Control Authority has the right to remove the collar from any living animal impounded so as to prevent injury and from any dead animal to aid in identification of owner.
(Prior Code, § 3-33)
(Ord. 1758, § 1(part)) Penalty, see § 90.99

§ 90.37 EXEMPTIONS FROM CHAPTER.

The licensing provisions of this chapter shall not apply to animals actually confined to the premises of education and research institutions or incorporated benevolent societies devoted to the care or hospital treatment of lost, strayed or homeless animals, or to dogs owned by non-residents of the city for a period not to exceed 30 days if the animals are wearing a current and valid license issued by another jurisdiction and the owner can submit proof of current protection against rabies.
(Prior Code, § 3-34) (Ord. 1758, § 1(part))

§ 90.38 RABIES VACCINATION RESPONSIBILITY; VIOLATION; IMPOUNDMENT.

It shall be the duty of every cat and/or dog owner to have animals over the age of 6 months of age vaccinated against rabies. The inability of the owner, within 7 days, to produce evidence of a current rabies vaccination shall constitute prima facie evidence that the animal is not vaccinated. The effective period of the various vaccines shall be established based on the current practices of the veterinarians of this state.
(Prior Code, § 3-35) (Ord. 1758, § 1(part)) Penalty, see § 90.99

§ 90.39 MAINTENANCE OF VACCINATION; CLINICS.

The Animal Control Authority may maintain, at least annually, vaccination clinics at convenient locations in the city for such periods as it shall deem necessary and all dogs and cats from the city may be vaccinated at such clinics during such periods. The Animal Control Authority may establish a fee for vaccination not to exceed the costs of administering the vaccinations.

(Prior Code, § 3-36) (Ord. 1758, § 1(part))

§ 90.40 ISSUANCE OF NEW VACCINATION CERTIFICATE TO BE REPLACED; LOST OR DESTROYED CERTIFICATES.

A veterinarian shall issue a new vaccination certificate to replace a lost or destroyed 1 upon receiving satisfactory evidence that he or she has previously vaccinated the animal.

(Prior Code, § 3-37) (Ord. 1758, § 1(part))

§ 90.41 IMPOUNDING OR DESTROYING RABID CATS AND DOGS.

The Animal Control Authority shall cause all rabid cats and dogs to be impounded and destroyed and shall cause any animal, whether vaccinated or not, which has come into contact with a rabid animal, to be destroyed or impounded at the owner's expense for 14 days. Any animal imported from an area where a rabies quarantine has been imposed shall be quarantined for 6 months or returned to place of origin, or destroyed, all at the owner's expense.

(Prior Code, § 3-38) (Ord. 1758, § 1(part))

§ 90.42 DOMESTIC ANIMALS WHICH HAVE BITTEN PERSONS.

(A) When any animal subject to rabies has bitten or attacked any person or domestic animal, or when any animal is suspected of having rabies, it shall be the duty of any person having knowledge of the facts to report same immediately to the Health Officer. All animal bites are also to be reported to the Animal Control Authority. The report may also be made at the city police station. The animal shall be confined in such way and for such period of time as the Health Officer shall direct. No person shall release from its place of confinement any such animal or remove the animal to another place without the consent of the Health Officer. Animals not currently vaccinated for rabies that have bitten any person must be confined, at owner's expense, at either the animal control facility or a commercial boarding facility.

(B) An unvaccinated animal that has bitten a person may not be confined at home. A biting animal with current rabies vaccination may be confined at the owner's home. It is unlawful for any owner to give up ownership of an animal that has bitten any person before the period of confinement is over. The Health Officer shall be empowered, in his or her discretion, to order impoundment or examination, or both, of any such animal to determine if it may have rabies.

(C) No person shall refuse to surrender any animal for quarantine. If the animal dies or is killed, a laboratory examination of the head shall be made. It shall be unlawful for a person to refuse or fail to comply with the provisions of this section or with the order or directives of the Health Officer relating hereto. (Prior Code, § 3-39) (Ord. 1758, § 1(part)) Penalty, see § 90.99

§ 90.43 HEALTH OFFICER; DUTIES.

Whenever the Health Officer finds that there is a danger that rabies exists or may be introduced in the city, it shall be his or her duty to report same to the Common Council. (Prior Code, § 3-40) (Ord. 1758, § 1(part))

§ 90.44 PROCLAMATION OF QUARANTINE; NOTICE.

Whenever the danger of rabies is so reported as provided in § 90.43, and the Common Council, in its discretion, believes it necessary to prevent the spread thereof, it shall, in order to protect human life, by simple resolution, proclaim a quarantine on any or all species of domestic animals for all or any portion of the city. The quarantine may be proclaimed for such length of time as the Common Council may deem necessary. When such a quarantine shall be proclaimed, it shall be the city's responsibility to so notify the citizenry of this city by posting and legal publication. (Prior Code, § 3-41) (Ord. 1758, § 1(part))

§ 90.45 DUTY OF OWNERS DURING QUARANTINE.

When a quarantine has been proclaimed, it shall be the duty of all persons residing in the city owning, harboring or having in their custody (either permanently or temporarily) any quarantined animal, to keep that animal securely confined at all times and away from all other animals not belonging to that owner. During the existence of a quarantine, no quarantined animal may be taken or shipped from its residence to another or any other place without the consent of the Health Officer. (Prior Code, § 3-42) (Ord. 1758, § 1(part))

§ 90.46 ADMINISTRATION AND ENFORCEMENT OF CHAPTER; DUTY OF LAW ENFORCEMENT OFFICER TO COOPERATE.

When a quarantine is proclaimed, it shall be the duty of the Health Officer to supervise and administer the same. It shall be the duty of all law enforcement officers within the city to cooperate with the enforcement of this and all other sections of this chapter. (Prior Code, § 3-43) (Ord. 1758, § 1(part))

§ 90.47 OPERATION OF COMMERCIAL ANIMAL ESTABLISHMENTS OR KENNELS.

(A) *Generally.* Persons wishing to operate a commercial animal establishment or a kennel shall comply with the following:

(1) Shall make an application with the city's Clerk-Treasurer for the operation. Application shall also include statements by neighbors about the feasibility of such a facility in their neighborhood;

(2) If the application shall be approved, the Humane Officer, Animal Control Agent or Humane Society representative may inspect premises to see that provisions of this chapter and others are adhered to;

(3) If the application shall be approved, any commercial establishment, i.e. pet shop, store, permanent auction facility, riding facility, stable, training facility, boarding facility or permanent residence of animals that perform for money, shall either hold a current Indiana retail merchants certificate for the business so approved or pay to the city's Clerk-Treasurer a registration fee as set out in the Fee Schedule of this code;

(4) If the application shall be approved, dog or cat kennels established for the breeding or sale of the animals shall pay a registration fee to the city's Clerk-Treasurer as set forth in the Fee Schedule of this code;

(5) Persons wishing to house a greater number of animals but only as pets and not for breeding or for profit shall also make application to the city's Clerk-Treasurer as provided in division (A)(1) above. If the application is approved, no registration fee shall be charged; and

(6) One-time animal auctions or performing animals passing through the area shall not make application, nor pay a fee but shall be subject to inspections.
(Prior Code, § 3-44)

(B) *Inspections.* The Humane Officer, Animal Control Authority or Humane Society representative shall be permitted to enter all such licensed premises to observe conditions and ensure that this chapter and state laws are adhered to.
(Prior Code, § 3-45) (Ord. 1758, § 1(part))

§ 90.48 CONSTRUCTION AND INTERPRETATION OF CHAPTER.

These rules and regulations are in addition to, and not intended to conflict with, any existing rules or regulations of the state's or county's Board of Health or any provisions of the Acts of the Indiana General Assembly, or of other ordinances, rules or regulations now in effect within the city.
(Prior Code, § 3-46) (Ord. 1758, § 1(part))

§ 90.99 PENALTY.

Any person, firm or corporation violating any provision of this chapter shall be subject to the penalty provided in § 10.99 of this code.
(Prior Code, § 3-47) (Ord. 1758, § 1(part))

Hobart - General Regulations

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CHAPTER 91. PARKS AND RECREATION

§ 91.01 DEPARTMENT OF PUBLIC PARKS; ESTABLISHED.

The Common Council hereby adopts the provisions of I.C. 36-10-4. A separate department within the city government is created, to be known as the Department of Public Parks, in accordance with I.C. 36-10-4. The Department of Parks and Recreation previously created under I.C. 36-10-3 shall cease to exist and all of its obligations and property are hereby transferred to the Hobart Department of Public Parks created hereunder.

(Prior Code, § 12-1) (Ord. 620, §§ 2, 3; Ord. 94-54, § 1(part); Ord. 96-02, § 1)

Editor's note:

Two copies of the provisions adopted by reference in this section are available for public inspection at the office of the Clerk-Treasurer during regular business hours.

§ 91.02 BOARD OF PARK COMMISSIONERS; MEMBERSHIP; APPOINTMENT.

(A) The Hobart Department of Public Parks shall be governed by a Board of Park Commissioners. The Park and Recreation Board, previously created under I.C. 36-10-3, shall cease to exist and all of its obligations and property are hereby transferred to the Board of Park Commissioners created hereunder. The Board of Park Commissioners shall be composed of 4 Commissioners appointed by the Mayor. Each Commissioner must be a resident property owner of the City of Hobart and not more than 2 Commissioners shall be affiliated with the same political party. Each Commissioner appointed shall hold office for a term of 4 years, beginning on January 1 in the year of the appointment.

(B) Before beginning his or her duties, each Commissioner shall take and subscribe the usual oath of office. The oath shall be endorsed upon the certificate of appointment and filed with the Clerk-Treasurer. If a Commissioner has not filed his or her oath:

(1) Within 30 days after the beginning of his or her term; and/or

(2) By the date of his or her appointment if he or she was appointed after the beginning of the term; he or she is considered to have refused to serve and the office becomes vacant.

(C) The Mayor shall appoint a Commissioner to fill a vacancy caused by the expiration of a term by February 1 of that year. If a vacancy occurs, the Mayor shall appoint a new Commissioner for the remainder of the unexpired term. A Commissioner may not be removed from office except upon charges, preferred in writing before the Mayor, with a hearing held on them. If the Mayor is bringing the charges, the Common Council shall appoint a hearing officer. The only permissible reasons for removal are:

- (1) Inefficiency;
- (2) Neglect of duty; and/or
- (3) Malfeasance in office.

(Prior Code, § 12-2) (Ord. 620, §§ 2, 3; Ord. 94-54, § 1(part); Ord. 96-02, § 1)

§ 91.03 GENERAL PARK FUND; ESTABLISHED; AUTHORITY TO LEVY TAX.

A general park fund is established, the funds for which shall be raised by an annual tax levied by the Common Council, or by gifts, donations or payments to the General Park Fund as provided by state law. All funds derived from any such tax shall be deposited in the General Park Fund. All monies on deposit in the Recreation Fund, heretofore created by Ord. 620, shall be transferred to the General Park Fund and the Recreation Fund shall cease to exist.

(Prior Code, § 12-3) (Ord. 620, §§ 2, 3; Ord. 94-54, § 1(part); Ord. 96-02, § 1)

§ 91.04 BOARD OF PARK COMMISSIONERS; FUND ADMINISTRATION.

The Board of Park Commissioners shall henceforth administer all funds in and appropriated to the General Park Fund established in § 91.03.

(Prior Code, § 12-4) (Ord. 362, § 1; Ord. 94-54, § 1(part); Ord. 96-02, § 1)

§ 91.05 PLAYGROUNDS AND RECREATION CENTERS; ACQUISITION OF LAND; AUTHORITY.

(A) The city is herein authorized, through its Board of Public Works and Safety or its Board of Park Commissioners, to acquire real property for playground and recreation purposes.

(Prior Code, § 12-5)

(B) The power to establish, maintain and equip playgrounds and recreation centers shall be vested in the Board of Park Commissioners.

(Prior Code, § 12-6)

(Ord. 620, §§ 2, 3; Ord. 94-54, § 1(part); Ord. 96-02, § 1)

§ 91.06 RIDING OF ANIMALS ON PARKWAYS; PROHIBITED.

It is unlawful for any person or his or her agents, servants or representatives to ride, drive, lead or allow to roam any horse, pony or mule upon any of the property owned or designated by the city for park purposes, parkways, parkway purposes or bathing beaches in the city, except that part of the park or parkway system or other property that is designated by the city or the Board of Park Commissioners of the use of horse, ponies or mules.

(Prior Code, § 12-7) (Ord. 620, § 4; Ord. 94-54, § 1(part); Ord. 96-02, § 1) Penalty, see § 10.99

§ 91.07 SPECIAL TAXING DISTRICT; ESTABLISHED.

All of the area within the corporate boundaries of the city constitute a taxing district for levying special benefit taxes for park purposes as provided in I.C. 36-10-4.

(Prior Code, § 12-8) (Ord. 94-54, § 1(part); Ord. 96-02, § 1)

Hobart - General Regulations

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GENERAL PROVISIONS

§ 92.01 PROPERTY COMPRISING CEMETERY.

The cemetery property owned by the city is the Hobart Cemetery, located in the city, and more specifically described in the plat recorded in the county Recorder's office.
(Prior Code, § 8-1) (Ord. 194, § 7)

§ 92.02 MINIMUM SALE PRICE OF LOTS.

Lots in the Hobart Cemetery shall not be sold for less than the amount set out in the Fee Schedule of this code.
(Prior Code, § 8-2) (Ord. 194, § 8)

§ 92.03 DISPOSITION OF MONEYS COLLECTED.

All money collected from the sale of lots in the Hobart Cemetery shall be placed in the city's Treasury and shall not be subject to use without the written consent of the Common Council. The city's Clerk-Treasurer shall

have the power to invest the sums as provided by the statutes of the state; provided that, all money invested in U.S. government bonds, the interest therefrom to become a part of the principal sum, unless otherwise directed by the Common Council.

(Prior Code, § 8-8) (Ord. 194, § 4)

BOARD OF CEMETERY TRUSTEES

§ 92.20 CREATED; PURPOSE.

There is created the Board of Cemetery Trustees, for the purpose of caring for and maintaining the Hobart Cemetery and for the purpose of executing instruments of conveyance for the lots therein. The Board shall be known as the “Board of Trustees of the Hobart Cemetery”.

(Prior Code, § 8-3) (Ord. 194, § 6)

§ 92.21 APPOINTMENT; TERM; VACANCIES.

The Board of Trustees of the Hobart Cemetery shall be composed of 3 members, to be appointed by the Common Council and Mayor of the city, from the resident lot owners of the cemetery. Each member so appointed shall serve for a term of 3 years from his or her appointment. In the event of the death or resignation of any member or any other vacancies, the Common Council and Mayor of the city shall appoint another lot owner to serve the unexpired term of the retired member.

(Prior Code, § 8-4) (Ord. 194, § 1)

§ 92.22 ORGANIZATION; OFFICERS; MEETINGS.

The Board of Trustees of the Hobart Cemetery shall meet within 5 days after its appointment and qualification and elect a president, secretary and treasurer. The Board shall adopt a procedure for its meetings and shall meet at least once every month.

(Prior Code, § 8-5) (Ord. 194, § 1)

§ 92.23 POWERS; DUTIES.

The Board of Trustees of the Hobart Cemetery shall have charge, control and management of the Hobart Cemetery and shall have the power to execute conveyances. The conveyances shall be executed by the Secretary of the Board and the city’s Clerk-Treasurer, and the seal of the Board affixed thereto. Any money received therefrom shall be placed in the hands of the city’s Clerk-Treasurer on the first Wednesday of each month, and the Treasurer of the Board shall submit his or her report, in writing, to the Common Council of the care and management of the cemetery and a detailed report of all money collected. The Board shall have the complete control of the cemetery; provided that, no money shall be spent without first obtaining the consent of the Common Council.

(Prior Code, § 8-6) (Ord. 194, § 3)

§ 92.24 TREASURER'S BOND.

The Treasurer of the Board of Trustees of the Hobart Cemetery shall be bonded in the sum of \$500, payable to the city's Clerk-Treasurer. In the event of surety bonds being issued, the city shall pay for the same. The bond shall be placed with the city's Clerk-Treasurer, and the Treasurer of the Cemetery Board shall not act or collect any money until after the bond has been first filed and approved by the Common Council.

(Prior Code, § 8-7) (Ord. 194, § 5)

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GENERAL PROVISIONS

§ 93.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPROVED. When applied to materials, type of construction and appliances, refers to approval by the Director of the Bureau of Fire Prevention as a result of investigations and tests conducted by him or her or by reason of accepted principles or tests by the National Board of Fire Underwriters of the Underwriters' Laboratories, Inc., or the National Bureau of Standards.

BUILDING. Its customary and ordinary meaning; but, where a shed or attachment has been built onto an original structure, or where 2 or more buildings have been joined together, or where a second building has been built adjacent to the first and utilized a wall of the first building as a party wall, all parts shall be considered 1 building, or any edifice or structure for human habitation whether located on or affixed to land.

LODGING HOUSE. Its ordinary and customary meaning; and shall also mean and include hotels, boarding houses, rooming houses, tenement houses or any other houses, by whatsoever name known, used and occupied or designed and constructed so that the same may be used and occupied for the permanent or temporary occupancy for 3 or more living quarters.

(Prior Code, § 6-1) (Ord. 604, § 3)

§ 93.002 FIRE EXITS.

(A) No person shall, at any time, place an encumbrance of any kind whatsoever before or upon any fire escape, balcony or ladder intended as a means of escape from fire. It shall be the duty of every member of the Police or Fire Department who shall discover any fire escape encumbered in any manner to forthwith report the same to the Bureau of Fire Prevention, and the Bureau shall immediately notify the occupant to remove the encumbrance.

(B) It is unlawful for any person to place, store or keep or permit to be placed, stored or kept under or at the bottom of any stairway, inside or outside, elevator or other shaft in any building, any combustible or flammable materials, fluids or compounds, nor shall any such combustible or flammable materials be placed or stored or kept in any place where ignition or burning would obstruct or render hazardous, egress from a building.

(C) No obstruction shall be permitted in hallways of lodging houses, tenement houses or apartments.

(D) All doors, aisles and passageways within and leading into or out of places of assembly shall be kept free from easels, signs, standards, campstools, chairs, sofas, benches and any other articles that might obstruct or delay the exit of the audience, congregation or assemblage during the entire time which any show, performance, service, exhibit, lecture, concert, ball or other assemblage may be held. Rear passage from all exits and on sidewalks shall, at all times, be maintained outside of all places of assembly.

(E) (1) No aisle, passageway or stairway in any store shall be obstructed with tables, showcases or other obstructions during the hours the store is open to the public.

(2) It shall be the duty of the Police Department to render assistance to the Bureau of Fire Prevention in the enforcement of these provisions.

(F) All required exit doorways, other than those normally used for entrance shall be plainly marked by approved exit signs sufficiently illuminated when the floor area is occupied, to be readily distinguished.

(G) Directional signs shall be placed on walls, or otherwise displayed in conspicuous locations to direct occupants to exits.

(H) Required exits shall be kept adequately lighted at all times that the building thereby served is occupied.

(I) No doors designated by the Director of the Bureau of Fire Prevention as emergency exits shall be barred or locked.

(J) Where the number of persons exceed 75 in any room, the artificial lighting of the room and of exitways therefrom shall be by electricity so arranged and supplied that interruption of supply to any 1 lighting branch circuit will not result in extinguishment of all the lights in the room or all the lights along any exitway. (Prior Code, § 6-17) (Ord. 604, § 7) Penalty, see § 93.999

§ 93.003 OPENING FIRE HYDRANTS, STOPCOCKS; PERMISSION REQUIRED.

It is unlawful for any person, other than a duly authorized agent of a waterworks company or a member of the Fire Department, while engaged in the performance of his or her regular duties and for the uses and purposes of the Department, to open or attempt to open any of the fire hydrants, public stopcocks or valves connected with any such waterworks system of the city without the person first obtaining written permission so to do from the company.

(Prior Code, § 6-18) (Ord. 604, § 7) Penalty, see § 93.999

§ 93.004 BONFIRES PROHIBITED; EXCEPTION.

(A) No person shall kindle or maintain any fire or authorize any such fire to be kindled or maintained on or in any street, alley or road except with a wire, metal or similar non-flammable container, enclosure or unless the fire is and remains under the direct and constant supervision of some competent person.

(B) No person shall kindle or maintain any fire or bonfire on public ground unless written permission to do so shall first have been secured from the Bureau of Fire Prevention.

(C) It shall be unlawful for any person to kindle or maintain any fire or authorize any fire to be kindled or maintained on private property within the corporate limits of the City of Hobart for the purpose of disposing of combustible materials, garbage, refuse, rubbish, waste, debris and recyclables. Any lawful fire must be kindled and maintained in a wire, metal, concrete or similar non-flammable container enclosure and kept under the direct and constant supervision of a competent person.

(Prior Code, § 6-19) (Ord. 604, § 8; Ord. 93-45, (part)) Penalty, see § 93.999

§ 93.005 COMBUSTIBLE MATERIALS.

(A) *Disposal.* No person shall deposit smoldering coals or embers, greasy or oily substances or other matter liable to create spontaneous ignition within 10 feet of any wooden or plastered wall, partition, fence, floor, sidewalk, lumber, hay, shavings, rubbish or other combustible materials, except in metallic or other non-combustible receptacles. The receptacles, unless resting on a non-combustible floor or on the ground outside the building, shall be placed on non-combustible stands, and in every case shall be kept at least 2 feet away from any combustible wall or partition.

(Prior Code, § 6-20)

(B) *Disposal.* No person shall permit to remain upon any roof or in any court, yard, vacant lot or open space, any accumulation of wastepaper, hay, grass, straw, weeds, litter or combustible or flammable waste or rubbish of any kind. All weeds, grass, vines or other growth, when same endangers property or is liable to be fired, shall be cut down and removed by the owner or occupant of the property it is on.

(Prior Code, § 6-21)

(C) *Storage requirements.*

(1) No person making, using, storing or having charge or control of any shavings, excelsior, rubbish, sacks, bags, litter, hay, straw or combustible trash, waste or fragments shall fail, neglect or refuse, at the close of each day, to cause all such matter which is not compactly baled or stacked in an orderly manner to be removed from the building or stored in suitable vaults or in metal-lined covered receptacles or bins.

(2) The Director of the Bureau of Fire Prevention shall require suitable baling presses to be installed in stores, apartment buildings, factories and similar places where accumulation of paper and waste materials are not removed at least every second day.

(Prior Code, § 6-22)

(Ord. 604, § 8) Penalty, see § 93.999

§ 93.006 FLAMEPROOFING.

(A) *Electric bulb decorations.* Electric light bulbs in stores or public halls shall not be decorated with paper or other combustible materials unless the materials shall first have been rendered flameproof.

(Prior Code, § 6-23)

(B) *Decorations in places of assembly.* In places of assembly, all combustible decorative materials, including curtains, acoustical materials, streamers, cloth, cotton batting, straw, vines, leaves and moss, but not including floor coverings, shall be of materials not exceeding 1/16-inch in thickness, applied directly to and adhering to a non-combustible base. The flameproofing, unless certified by Underwriters' Laboratories, Inc., or other laboratories of recognized standing as being of a permanent nature, shall be renewed each 6 months if necessary.

(Prior Code, § 6-24)

(Ord. 604, § 8) Penalty, see § 93.999

§ 93.007 FIRE EXTINGUISHERS; REQUIRED IN CERTAIN PUBLIC BUILDINGS.

The Director of the Bureau of Fire Prevention shall require the installation of portable fire extinguishers or other fire extinguishing appliances as may be deemed necessary in schools, hotels, lodging houses, hospitals, churches, halls, theaters and all other places in which numbers of persons meet, work, live or congregate from time to time.

(Prior Code, § 6-25) (Ord. 604, § 8)

§ 93.008 ADEQUATE LIGHTING REQUIRED.

All apartment buildings, lodging houses, factories, hotels and hospitals shall maintain adequate lighting in all hallways and stairways from dusk to dawn.

(Prior Code, § 6-26) (Ord. 604, § 8)

§ 93.009 SMOKING RESTRICTIONS.

(A) The Chief of the Fire Department or the Director of the Bureau of Fire Prevention is empowered and authorized to inspect all warehouses, stores, industrial establishments and any building, structure or open space in which combustible materials are handled, stored, manufactured or sold, and where conditions are found to justify the prohibition of smoking, he or she shall order the owner or occupant, in writing, to post suitable signs or placards in each room, building, structure, elevator or place in which the prohibition of smoking shall be enforced.

(B) All such signs or installations shall read:

BY ORDER OF
THE FIRE DEPARTMENT
MUNICIPAL CODE CHAPTER 93

(C) The Chief of the Fire Department or the Director of the Bureau of Fire Prevention may designate special rooms or portions of structures in which smoking, under such restrictions as he or she may designate, may be permitted.

(D) It is unlawful for any unauthorized person to remove any placard posted pursuant to this chapter. It is unlawful for any person to smoke in any properly placarded place.

(E) The term *SMOKING* shall include the carrying of a lighted pipe, cigar, cigarette or tobacco in any form.

(Prior Code, § 6-27) (Ord. 604, § 9) Penalty, see § 93.999

§ 93.010 CONFLICTING STATUTES.

This chapter shall be effective except where it conflicts with the rules and regulations of the state's Fire Marshal, the rules and regulations of the state's Administrative Building Council and the laws of the state.

(Prior Code, § 6-29) (Ord. 604, § 12)

§ 93.011 TRAINING AND ASSIGNMENT OF FIRE DEPARTMENT PERSONNEL.

(A) No person employed by the City of Hobart shall be assigned to or shall engage in the functions of fire suppression and fire protection within the Fire and Ambulance Department of the city without first having:

(1) Properly taken and passed an entrance examination administered by the City of Hobart Civil Service Fire Commission in accordance with the provisions hereof subsequent and amendatory thereto or otherwise achieved coverage by Fire Civil Service in the City of Hobart through any other means authorized by law; and

(2) Received the customary and usual training in fire suppression and protection provided to entry level firefighters by the Hobart Fire and Ambulance Department.

(B) Nothing in this section shall prevent an employee of the City of Hobart Fire and Ambulance Department who is not qualified to perform fire suppression and protection activities under division (A) above from performing any other activities or duties of employment for which he or she may be qualified including, but without limitation, the provision of emergency medical services, fire inspection and investigation, clerical and maintenance duties.

(Ord. 97-14, § 1)

§ 93.012 CIVIL SERVICE SYSTEM FOR FIRE DEPARTMENT.

(A) *Application of section.* The provisions of this section shall apply to all cities having regularly organized paid Fire Departments and a population of less than 90,000 or more than 125,000 according to the last preceding United States decennial census in counties having 3 or more second class cities, provided, however, that the provisions may be applied to other cities in the counties pursuant to division (T) of this section.

(I.C. 19-1-37.5-1)

(B) *Civil Service Commission - members - selection - qualifications - vacancies - removal - quorum.* The Civil Service Commission shall be composed of 3 persons to be appointed as follows.

(1) One to be appointed by the Mayor with the approval of the Common Council for the term of 1 year.

(2) One to be elected by the active members of the Fire Department for the term of 2 years in the following manner:

(a) An election to be made by the active members of the Department shall be made at a meeting called specifically for that purpose by the Board of Public Works and Safety. The Board shall give at least 3 weeks notice of the meeting to all active members of the Department by posting the notice in prominent locations in stations of the Department. The notice shall also be read during shift roll calls. The notice must designate the time, place, and purpose of the meeting.

(b) Only active members of the Department may attend the meeting, and at the meeting 1 of them shall be selected as Chairperson. All voting must be by secret written ballot. The other procedures for holding the meeting may be determined by the Board of Public Works and Safety and shall be posted in accordance with the preceding division.

(3) The third member shall be chosen by the above 2 members for a term of 3 years. In the event that the above 2 members fail to agree within 30 days of their appointment, then, upon the petition of any interested person showing the facts, the judge of the circuit court shall appoint a third member.

(4) Should the Mayor fail to appoint or the Council fail to approve a member as provided in division (B)(1) within 45 days after the effective date (January 21, 1972) of this section or the expiration date of any such members' term as provided hereafter, the Clerk-Treasurer shall make the appointment and members shall be qualified as if appointed by the Mayor and approved by the Council.

(5) The first such election provided for in division (B)(2) shall be conducted within 45 days after the effective date (January 21, 1972) of this law.

(6) Upon the expiration of each of the terms their successor shall be appointed in a like manner to serve for a term of 3 years. The Commissioners shall be of good moral character, a citizen of the United States, an elector of the county in which he or she resides, and not more than 2 of whom shall be of the same political party. Any member of such Commission may be removed from office for incompetency, dereliction of duty, malfeasance in office, or other good cause by the Mayor with the consent of the Common Council. Provided, however, that no member of the Commission shall be removed until the charges with due notice, have been preferred in writing, and a full hearing had before the Mayor of the city. Provided, further, that the member of the Commission so removed shall have the right of appeal to the circuit court of the county in which that city is located, which court shall thereupon proceed to hear and determine such appeal in a summary manner. The hearing shall be confined to the determination of whether the judgment or the order of removal was or was not made in good faith or cause, and no appeal to such court shall be taken except upon such ground or grounds. Two members of such commission shall constitute a quorum and the votes of any 2 members of such Commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission. No person shall be appointed to serve on the Commission who has held any political elective office in the 3 years immediately preceding his or her appointment.

(Ord. 97-13, § 3)

(C) *Employees of Department included; appointments and promotions, and the like; examinations; investigations; chief.* The classified Civil Service and provisions of this section shall include all full paid employees of the Fire Department of each city, town, or municipality coming within its purview, who are members of the Firemen's Pension Fund. All appointments to and promotions in the Department shall be made solely on merit, efficiency, and fitness, which shall be ascertained by open competitive examination and impartial investigations, providing that such investigation shall apply to applicants for entrance only there shall be no weight given to an oral interview in competitive examinations for appointment; provided, however, that the Chief of the fire force shall be appointed by the appointing power or the Board of Public Works and Safety from the ranks of the officers of the fire force; provided, further, that in the event of removal or demotion of the Chief of the fire force, he or she shall not be demoted to a rank lower than that which he or she had achieved through civil service examination. No person shall be reinstated in, or transferred, suspended; or discharged from any such place, position, or employment contrary to the provisions this section.

(I.C. 19-1-37.5-3)

(D) *Commission; officers; powers and duties; rules and regulations.*

(1) Immediately after appointment, the Commission shall organize by electing 1 of its members Chairperson and hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of their duties.

(2) They shall appoint a secretary and chief examiner, who shall keep the records of the Commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform, such other duties as the commission may prescribe.

(3) The secretary and chief examiner shall be appointed as a result of competitive examination, which examination may be either original and open to all properly qualified citizens of the state, or promotional and limited to persons already in the service of the Fire Department, as the Commission may decide. The secretary and chief examiner may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the Fire Department. It shall be the duty of the Civil Service Commission:

(a) To make suitable rules and regulations not inconsistent with the provisions of this section. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions, and discharges shall be made; and may, also, provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this section, or which may be found to be in the interest of good personnel administration. The rules and regulations and any amendments thereof shall be printed, mimeographed, or multigraphed for free public distribution. Such rules and regulations may be changed from time to time;

(b) All tests shall be practical, and shall consist only of subjects which will fairly determine the capacity of the person examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill;

(c) The rules and regulations adopted by the Commission shall provide for a credit of 10% in favor of all applicants for appointment under civil service, who, in time of war, or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States. These credits apply to entrance examinations only;

(d) The Commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions, and employments affected by this chapter; and ascertain whether this chapter and all such rules and regulations are being obeyed. Such investigations may be made by the Commission or by any Commissioner designated by the Commission for that purpose. Not only may these investigations be made by the commission as aforesaid, but the Commission shall make like investigation on petition of a citizen duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the Commission or designated commissioner, or chief examiner shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents, and accounts appertaining to the investigation, and also to cause the deposition of witnesses residing within the state to be taken, in the manner prescribed by, law for like depositions, in civil actions. The oaths administered and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a circuit judge in his or her judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section. shall be deemed a violation of this section, and punishable as such;

(e) All hearings and investigations before the Commission or chief examiner shall be governed by the rules of civil procedure and any fireman charged with violation upon his or her request, be given a public hearing. He or she shall have the right to call witnesses and question his or her accuser under oath and employ counsel. In all hearings wherein the fireman may be discharged, demoted, or suspended for a period in excess of 15 calendar days, the Commission shall cause the evidence to be taken by a court reporter whose transcript shall form a permanent part of the records of the proceedings. A copy of the transcript shall be furnished to the fireman, free of charge, for use on appeal at the request of the fireman;

(f) To hear and determine appeals or complaints respecting the administrative work of the Personnel Department; appeals upon the allocation of position; the rejection of an examination, and such other matters as may be referred to the Commission;

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(g) Establish and maintain in card or other suitable form a roster of officers and employees;

(h) Provide for, formulate, and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position, and, as a result thereof, establish eligible lists for the various classes of position, and to provide that members laid off because of curtailment of expenditures, reduction in force, and for like causes, shall be the last members, including probationers, that have been appointed to the Fire Department. Such removal shall be accomplished by suspending in numerical order, commencing with the last members appointed to the Fire Department, all recent appointees to the Fire Department, until such reductions necessary shall have been accomplished. Provided, further, that in the event the Fire Department shall again be increased in numbers, the firemen suspended under the terms of this chapter, shall be reinstated before any new appointments to the Fire Department shall be made; and

(i) When a vacant position is to be filled, to certify to the appointing authority, on written request, the name of the person highest on the eligible list for the class. If there are no such lists, to authorize provisional or temporary appointment list of such class. Any such temporary appointment shall be terminated whenever the first person becomes available for appointment from the regular list.

(I.C. 19-1-37.5-4)

(E) *Firemen and officers to continue to hold, positions; examinations; promotions.* Any fulltime fireman except those on probation who is serving upon the Fire Department upon the adoption of the civil service system in any municipality shall be deemed to be a permanent member of the civil service system without examination or other acts on their part as if such person had been permanently appointed thereto under civil service after examination and investigation. The officers of such Fire Department shall continue to hold the positions that they held at the time of the adoption of the civil system; until examinations are held. Examinations shall be held within 2 years of adoption of civil service. system. Provided, however, that to be eligible for promotion beyond such rank they shall be required to take the civil service examinations for promotion.

(I.C. 19-1-37.5-5)

(F) *Tenure; reasons or grounds for removal, discharge, suspension or demotion.* The tenure of anyone holding an office, place or position or employment under the provisions of this section shall be only during good behavior, and any such person may be removed, discharged or suspended, suspended without pay, demoted or reduced in rank, for the following reasons:

(1) Any fireman may be suspended without pay not to exceed 30 days, demoted or reduced in rank, or fined not exceeding \$50 for the violation of the written rules and regulations of the Commission. Any fine so levied shall be paid into the firemen's pension fund.

(2) A fireman may be suspended for more than 30 days or may be removed only upon 1 of the following grounds:

(a) Drunkenness or the use of narcotics while on duty to such an extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee and which prevents the employee from properly performing the functions and duties of any position under civil service;

(b) Willful failure to carry out the direct lawful orders of a superior officer;

(c) Failure to report for duty at the time scheduled without giving notice of inability to report: provided, however, that such failure to report is not caused by sudden illness, accident or other circumstances beyond his or her control that would prevent him or her from giving such notice;

(d) Failure to report for duty when directly ordered to do so: provided, that the fireman is well and able to carry out his or her duties. Examination and opinion of any physician appointed by the Commission shall be conclusive in this regard;

(e) Solicitation or acceptance of a bribe;

(f) Conviction of a felony;

(g) Willful and repeated violations of the rules and regulations adopted by the Commission: provided, however, that repeated violations shall be the conviction of more than 2 violations in any 1 year; and

(h) Cowardice while on duty.
(I.C. 19-1-37.5-6)

(G) Removal, discharge, suspension or demotion of persons in classified service; procedures; appeal.

(1) No person in the classified civil service who shall have been permanently appointed or inducted into civil service under provisions of this section, shall be removed, suspended, demoted or discharged except for cause, and only upon the written accusation of the appointing power, or any citizen or taxpayer, a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the Commission. The Chief of the Fire Department may suspend a member pending the confirmation of the suspension by the regular appointing power under the section which must be within 3 days. Any person so removed, suspended, demoted or discharged may, within 10 days from the time of his or her removal, suspension, demotion or discharge, file with the Commission a written demand for an investigation, whereupon the Commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made for political or religious reasons, and was or was not made in good faith for cause. After such investigation, the Commission may, if in its estimation the evidence is conclusive, affirm the removal, or if it shall find that the removal, suspension, or demotion was made for political or religious reasons, or was not made in good faith for cause, shall, order immediate reinstatement or reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted or discharged, which reinstatement shall, if the Commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. The Commission, upon such investigation in lieu of affirming the removal, suspension, demotion or discharge, may modify the order of removal, suspension, demotion or discharge by directing a suspension without pay for a given period; and subsequent restoration of duty, or demotion in classification, grade, or pay, the findings of the Commission shall be certified, in writing, to the appointing power, and shall be forthwith enforced by such officer.

(2) All investigations made by the Commission pursuant to the provisions of this section shall be by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his or her defense. If such judgment or order be concurred in by the Commission or a majority thereof, the accused may appeal therefrom to the circuit court of the county wherein he or she resides. Such appeal shall be taken by serving the

Commission, within 30 days after the entry of such judgment or order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the Commission affecting or relating to such judgment or order, be filed by the Commission with such court. The commission shall, within 10 days, after the filing of such notice, make, certify and file such transcript with such court. The circuit court shall thereupon proceed to hear and determine such appeal in a summary manner: provided, however, that such hearing be confined to the determination of whether the judgment or order of removal, discharge, demotion or suspension made by the Commission, was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds. (I.C. 19-1-37.5-7)

(H) *Inspection of city books or records by Commission.* It shall be the duty of all officers and employees of any such city to aid in all proper ways of carrying out the provisions of this section, and such rules and regulations as may, from time to time, be prescribed by the Commission thereunder and to afford the Commission, its members and employees, all reasonable facilities and assistance to inspect all books, papers, documents and accounts applying or in any way appertaining to any and all offices, places, positions and employments, subject to civil service, and also to produce the books, papers, documents and accounts, and attend and testify, whenever required so to do by the Commission or any Commissioner: provided, however, that nothing in this section shall be construed so as to require, nor permit the inspection of the books or the records of the firefighters' union. (I.C. 19-1-37.5-8)

(I) *Filling of vacancies: temporary appointees; probationary period; procedures.*

(1) Whenever a position in the classified service becomes vacant, the appointing power shall make requisition upon the Commission for the name and address of a person eligible for appointment thereto. The Commission shall certify the name of the person highest on the eligible list for the class to which the vacant position has been allocated, who is willing to accept employment. If there is no appropriate eligible list for the class, the Commission shall certify the name of the person standing highest on the list held appropriate for such class. If more than 1 vacancy is to be filled, an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint such person to such vacant position.

(2) Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the Commission shall forthwith certify the name of the person eligible for appointment to the appointing power, and the appointing power shall forthwith appoint the person so certified to the position. No person so certified shall be laid off; suspended, or given leave of absence from duty, transferred or reduced in pay or grade except for reasons which will promote the good of the service, specified in writing, and after an opportunity to be heard by the Commission and then only with its consent and approval.

(3) To enable the appointing power to exercise a choice in the filling of positions, no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of 6 to 12 months' probationary service, as may be provided in the rules of the Civil Service Commission during which the appointing power may terminate the employment of the person certified to him or her, or it, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems him or her unfit or unsatisfactory for service in the Department. Whereupon the appointing power shall designate the person certified as standing next highest on any such list and such person shall likewise enter upon the duties until some person is found who is deemed fit for City of Hobart Municipal Code 34

appointment, employment or promotion for the probationary period provided herefor, whereupon the appointment, employment or promotion shall be deemed to be complete: provided, however, that no person shall receive a permanent appointment unless he or she is accepted as a permanent member by the Board of Trustees of the firemen's pension fund and any person who fails to be accepted by the pension fund at the end of the probationary period shall be forthwith discharged, upon receipt of a resolution of the pension fund trustees that the person is unfit physically or mentally for permanent employment.
(I.C. 19-1-37.5-9)

(J) *Promotions: examinations; seniority; required rank; review.* All promotions shall be made pursuant to written and oral examinations and based upon seniority. Seniority shall count for 60% of the eligibility for promotion, 1/4 of a point shall be given for each month of service including probationary period up to a maximum of 60 points, the written examination for 30% and the oral examination for 10%; provided, however, that no candidate for promotion shall be considered who fails to achieve a passing score, as defined by the Commission or examining officer, on the written examination.

(1) All promotions to any rank shall be from the next immediate lower rank and provided that the person to be promoted shall have qualified in time of service as designated by the Commission; provided, however, that the Chief of the Fire Department be appointed in the manner expressed in division (C) of this section.

(2) All applicants for promotion shall be given an identical examination in the presence of each other, which promotional examination shall be entirely in writing, and all of the questions asked therein shall be prepared and composed in such a manner that the grading of the examination papers can be promptly completed immediately after the holding of the examination. When 1 of the applicants taking an examination for promotion has completed his or her answers, the grading of such examination shall begin, and all of the examination papers shall be graded as they are completed, at the place where the examination is given and in the presence of any applicants who wish to remain during the grading. Each applicant shall have the opportunity to examine his or her examination and his or her answers thereto together with the grading thereof and if dissatisfied, shall, within 5 days, appeal the same to the Commission for review.
(I.C. 19-1-37.5-10)

(K) *Power of appointment and to fix compensation not infringed.* All officers, places, positions and employments coming within the purview of this chapter, shall be created by the person or group of persons who, acting singly, or in conjunction, as a Mayor, Chief, Common Council, Commission or otherwise, is or are vested by law at and prior to the taking effect of this law, with power and authority to select, appoint, or employ any person coming within the purview of this section, and nothing herein contained shall infringe upon the power and authority of any such person or group of persons, or appointing power, to fix the salaries and compensation of all employees employed hereunder.
(I.C. 19-1-37.5-11)

(L) *Certificate of Commission required for payment of compensation.* No treasurer, auditor, comptroller or other officer or employee of any city, town, or municipality in which this section is effective, shall approve the payment of or be in any manner concerned in paying, auditing or approving any salary wage or other compensation for services, to any person subject to the jurisdiction and scope of this chapter, unless a payroll, estimate or account for such salary, wage or other compensation containing the names of persons to be paid, the amount to be paid to each such person, the services on account of which same is paid, and any other information which, in the judgment of the Civil Service Commission, should be furnished on the payroll, bears the certificate

of the Civil Service Commission or of its secretary or other duly authorized agent, that the persons named in such payroll, estimate or account have been appointed or employed in compliance with the terms of this section and with the rules of the Commission, and that the payroll, estimate or account is, so far as known to the Commission, a true and accurate statement. The Commission shall refuse to certify the pay of any public officer or employee whom it finds to be illegally or improperly appointed, and may further refuse to certify the pay of any public officer or employee who shall willfully or through culpable negligence violate or fail to comply with this section or with the rules of the Commission.

(I.C. 19-1-37.5-12)

(M) *Leave of absence without pay: temporary employment.* Leave of absence, without pay, may be granted by any appointing power to any person under civil service: provided, that such appointing power shall give notice of such leave to the Commission. All temporary employment caused by leaves of absence shall be made from the eligible list of the classified civil service.

(I.C. 19-1-37.5-13)

(N) *Enforcement of chapter and rules.* The Commission shall begin and conduct all civil suits which may be necessary for the proper enforcement of this section and of the rules of the Commission. The Commission shall be represented in such suits by the chief legal officer of the city, but the Commission may in any case be represented by special counsel appointed by it.

(I.C. 19-1-37.5-14)

(O) *Denial of applicant's rights prohibited.* No Commissioner or any other person shall, by himself or herself or in cooperation with 1 or more persons, defeat, deceive, or obstruct any person in respect of his or her right of examination or registration according to the rules and regulations of this section, or falsely mark, grade, estimate or report upon the examination of proper standing of any person examined, registered or certified pursuant to the provisions of this section, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified, or persuade any other person, or permit or aid in any manner other person to impersonate him or her in connection with examination or registration or application or request to be examined or registered.

(I.C. 19-1-37.5-15)

(P) *Political contributions or services barred.* No person holding any office, place, position, or employment subject to civil service, shall be under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever, and no person shall be removed, reduced in grade, or salary, or otherwise prejudiced for refusing to do so. No public officer, whether elected or appointed, shall discharge, promote, demote or in any manner change the official rank, employment, or compensation of any person under civil service, or promise or threaten to do so, for giving or withholding, or neglecting to make any contribution of money, or services, or any other valuable thing, for any political purpose.

(I.C. 19-1-37.5-16)

(Q) *Offices, supplies and equipment and clerical assistance for Commission.* The duly constituted authorities of each and every city coming within the purview of this section, shall provide the Commission with suitable and convenient rooms and accommodations and cause the same to be furnished, heated and lighted and supplied with

all office supplies and equipment necessary to carry on the business of the Commission and with such clerical assistance as may be necessary, all of which is to be commensurate with the number of persons in each such city coming within the purview of this section.

(I.C. 19-1-37.5-17)

(R) *Commission to implement chapter; failure to do so as violation.* Each Commission appointed subject to the provisions of this section, shall immediately organize and see to it that the provisions thereof are carried into effect, and to this end make suitable rules and regulations not inconsistent with the purpose of this section, for the purpose of putting the provisions thereof into effect; and the failure upon the part of the Commission or any individual member thereof to do so, shall be deemed a violation of this section, and shall be punishable as such.

(I.C. 19-1-37.5-18)

(S) *Violations.* A person who knowingly violates this section commits a Class A misdemeanor.

(I.C. 19-1-37.5-19)

(T) *Definitions.* As used in this section, the following mentioned terms shall have the following described meanings.

(1) The term “commission” means the Civil Service Commission herein created, and the term “commissioners” means any 1 of the 3 Commissioners of that Commission.

(2) The term “appointing power” includes every person or group of persons who, acting singly or in conjunction, as a Mayor, Common Council, Commission, or otherwise, is or are, vested by law with power and authority to select, appoint, or employ any person to hold any office, place, position or employment subject to civil service.

(3) The term “appointment” includes all means of selection, appointing or employing any person to hold any office, place, position or employment subject to civil service.

(4) The term “city” includes all cities, towns, and municipalities having a full paid Fire Department, or a Fire Department having paid members.

(5) The term “full paid Fire Department or Fire Department having paid members” means a Fire Department the officers and firemen employed in which are paid regularly by the city and devote their whole time to firefighting.

(I.C. 19-1-37.5-20)

(U) *Adoption of Civil Service system in a certain city: procedures.* The Civil Service system provided for in this chapter may be adopted in a city having a population of more than 100,000 but less than 125,000 in a county of 3 or more second class cities only through the procedures set forth in this section.

(1) Not later than 60 days after the passage of this law, the Board of Public Works and Safety of a city shall give at least a 1 weeks’ notice to all active members of the city fire force that a meeting will be held of the members for the purpose of adopting or rejecting the merit plan set forth in this section. Such notice shall be given by the Board by posting the same in prominent places in the central fire station, and which notice shall designate the time, place and purpose of the meeting. Members of such Department who are unable to attend any meeting

for the purpose of adopting or rejecting the merit plan set forth in this section may vote by virtue of a written proxy: provided, that no member shall vote more than 1 proxy vote besides his or her own vote, and all voting shall be by secret written ballot. In such meeting, 1 member of the fire force shall be selected as Chairperson, and no one shall be entitled to be present at the meeting except active members of the fire force.

(2) If a majority of the members of the active fire force voting upon the question shall vote in favor, the merit plan contained in this chapter shall be in full force and effect as of January 1 next following the taking of such vote, and appointments to the Civil Service Commission created herein shall be made not later than 60 days from the going into effect of the merit plan contained in this chapter. If the vote upon the question shall be in the negative, no such proposal shall be put to a vote of the active members of such fire force sooner than 1 year from the day of first holding a meeting for such purpose.
(I.C. 19-1-37.5-21)

(V) *Conflicting ordinances superseded* All ordinances or parts thereof in conflict with the provisions of this section are hereby declared superseded insofar as they conflict with the provisions of this section.
(I.C. 19-1-37.5-22)

(W) *Effect of chapter.* Nothing in this chapter shall be deemed to affect, amend or repeal any portion of I.C. 19-1-37; I.C. 18-1; and all laws amendatory or supplemental thereto.
(I.C. 19-1-37.5-23)

(X) *Declaration of intent.* It is the intent of the Common Council through this section to reaffirm former I.C. §§ 19-1-37.5-1 *et seq.* as the governing authority of the City of Hobart Civil Service Fire Commission, subject only to the amendment stated above in division (B) of this section, and to repeal and otherwise render ineffective any existing ordinances or sections thereof which attempt or have attempted to alter, replace, substitute, or change such governing authority to that of I.C. § 36-8-3.5 either in whole or in part.
(Ord. 97-13, § 4)

Editor's note:

Indiana Code 19-1-37.5-1 et seq. was formerly Acts 1972, Pub. L. No. 4, § 1, as amended by Acts 1978, Pub. L. No. 2, § 1905 and Acts 1981, Pub. L. No. 184, § 2.

BUREAU OF FIRE PREVENTION

§ 93.025 CREATED.

The Bureau of Fire Prevention in the Fire Department of the city is established, which shall be operated under the supervision of the Chief of the Fire Department.
(Prior Code, § 6-2) (Ord. 604, § 2)

§ 93.026 DIRECTOR DESIGNATED.

The Chief of the Fire Department shall designate an officer or member of the Fire Department as Director of the Bureau of Fire Prevention, who shall hold this office at the pleasure of the Chief of the Fire Department.
(Prior Code, § 6-3) (Ord. 604, § 2)

§ 93.027 INSPECTORS; ADDITIONAL MEMBERS' DUTIES.

The Chief of the Fire Department shall determine the number of inspectors in the Bureau of Fire Prevention and shall detail members of the Fire Department to duties in the Bureau.
(Prior Code, § 6-4) (Ord. 604, § 2)

§ 93.028 DUTIES.

(A) It shall be the duty of the members of the Bureau of Fire Prevention to enforce all laws, provisions of this code and other city ordinances covering the following:

- (1) The prevention of fires;
- (2) The storage and use of explosives and flammables;
- (3) The elimination of hazards in existing buildings and structures, including those under construction;
- (4) The means and adequacy of exit in case of fire from factories, schools, hotels, lodging houses, hospitals, churches, halls, theaters and all other places in which numbers of persons work, meet, live or congregate, from time to time, for any purpose; and
- (5) The investigation of the cause, origin and circumstances of fires.

(B) They shall have such other powers and perform such other duties as set forth in other sections of this code, other ordinances and as may be conferred and imposed from time to time by law.
(Prior Code, § 6-5) (Ord. 604, § 4)

§ 93.029 OFFICES CREATED; LIEUTENANT AND CAPTAIN; REAPPOINTMENT.

There is created in the Fire Department of the city the positions of Fire Lieutenant and Fire Captain. Appointments and reappointments to these positions shall be made by the Mayor on the recommendation of the Fire Chief.
(Prior Code, § 6-5.1) (Ord. 769, § 1)

§ 93.030 INSPECTIONS GENERALLY.

(A) The Chief of the Fire Department, Director of the Bureau of Fire Prevention or any inspector may, at all reasonable hours, enter any building, lodging house or premises, except interiors of private dwellings, within his or her jurisdiction for the purpose of making any inspection or investigation, which, under the provisions of this chapter, he or she may deem necessary to be made.

(B) It shall be the duty of the Chief of the Fire Department to inspect or cause to be inspected by the Bureau of Fire Prevention or by the Fire Department officers and members, as often as may be necessary, all buildings, lodging houses and premises, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions likely to cause fire, or any violations of the provisions or intent of any provisions of this code or other ordinances of the city affecting the fire hazard.

(C) The Chief of the Fire Department, Director of the Bureau of Fire Prevention or any inspector specially designed thereto shall inspect, as often as may be necessary, all especially hazardous manufacturing processes, storages or installations of gases, chemicals, oils, explosive and flammable materials or interior fire alarm and automatic sprinkler systems, portable fire extinguishers or other fire extinguishing appliances and such other hazards or appliances as the Chief of the Fire Department shall designate, and shall issue such order as may be necessary for the enforcement of the laws, provisions of this code and other city ordinances governing the same and for safeguarding of life and property from fire.

(D) It shall be the duty of the Chief of the Fire Department to inspect or cause to be inspected by the Bureau of Fire Prevention or by the Fire Department officers or members each place of assembly in order to ensure compliance with all laws, regulations and orders dealing with use of decorations, maintenance of exitways, collapse of revolving doors and maintenance of fire appliances in such places of assembly. Where conditions are found to be unsatisfactory, written orders for immediate correction shall be given.

(E) The Chief of the Fire Department, Director of the Bureau of Fire Prevention or any inspector, upon the complaint of any person or whenever he or she shall deem it necessary, shall inspect all buildings, lodging houses and premises within his or her jurisdiction. Whenever any of such officers shall find any building or other structure which, for want of repairs, lack of sufficient fire escapes, automatic or other fire alarm apparatus or fire extinguishing equipment or by reason of a dilapidated condition or from any other cause, is especially likely to fire, or which is so situated as to endanger other property or the occupants thereof and whenever such officers shall find, in any building, combustible or explosive matter of flammable conditions dangerous to the safety of the building or the occupants thereof, he or she shall order such dangerous conditions or materials to be removed or remedied in such manner as will be specified by the Director of the Bureau of Fire Prevention.

(Prior Code, § 6-6) (Ord. 604, § 4)

FIRE HAZARDS

§ 93.045 ORDERS TO REMOVE.

Whenever any inspector shall find in any building, lodging house or upon any premises combustible or explosive matter or dangerous accumulations or rubbish or unnecessary accumulations of wastepaper, boxes, shavings or any highly flammable materials, and which is so situated as to endanger life or property; or, shall find obstructions to or on fire escapes to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the operations of the Fire Department or egress of occupants in case of fire, he or she shall order the same to be removed or remedied.

(Prior Code, § 6-7) (Ord. 604, § 4)

§ 93.046 BUILDING MOVING, DEMOLITION; NOTICE.

Whenever any building, lodging house, wall or other structure or any part thereof shall have been declared to be a fire hazard and ordered repaired, torn down or removed by the Chief of the Fire Department or the Director of the Bureau of Fire Prevention, it shall be the duty of the Chief of the Fire Department to forthwith notify the Building Official, in writing, of the order, listing the reasons therefor.
(Prior Code, § 6-8) (Ord. 604, § 4)

§ 93.047 POSTING OF SIGNS.

In the event any building, lodging house, wall or other structure or any part thereof shall have been declared to be a fire hazard and ordered repaired, torn down or removed, the Bureau of Fire Inspection shall affix a sign to the building, wall or structure, which shall be prominently displayed with lettering thereon reading: "Condemned. By order of the Chief of the Fire Department." The sign shall remain affixed until removal thereof is authorized by the Chief of the Fire Department or the Building Official. The removal of such sign without authorization as aforesaid shall constitute a violation of this chapter.
(Prior Code, § 6-9) (Ord. 604, § 4) Penalty, see § 93.999

§ 93.048 DISCONNECTION OF DEFECTIVE EQUIPMENT.

When the fire hazard is permitted to continue in existence by the owner or occupant after having received an order to abate the same, and the Director of the Bureau of Fire Prevention or 1 of the inspectors shall find and determine from the facts that the danger to human life has been materially increased by defective electrical wiring, defective appliances, defective gas plumbing or defective gas appliances, the Director or inspector shall give notice of the defects to the Electrical Inspector or Plumbing Inspector, and if they shall find and determine that the danger to human life is materially increased, then the Inspector shall disconnect the gas or electrical services immediately.
(Prior Code, § 6-10) (Ord. 604, § 4)

§ 93.049 SERVICE OF ORDERS; APPEALS.

(A) (1) The service of orders mentioned in this chapter may be made upon the owner, occupant or other person responsible for the conditions, either by delivering a copy of same personally or by delivering the same to and leaving it with any person in charge of the premises or by affixing a copy thereof in a conspicuous place on the door to the entrance of the premises.

(2) Whenever it may be necessary to serve such an order upon the owner of the premises, the order may be served either by delivering to and leaving with the person a copy of the order or, if the owner is absent from the jurisdiction of the officers making the order, by mailing the copy by registered mail to the owner's last known post office address.

(B) If buildings, lodging houses or other premises are owned by 1 person and occupied by another under lease or otherwise, the orders issued in connection with enforcing of this chapter shall apply to the occupant above, except where the rules or orders require the making of additions to or changes in the premises themselves,

such as would immediately become real estate and be the property of the owner of the premises; in such case, the rules or orders shall affect the owner and not the occupant unless it is otherwise agreed between the owner and the occupant.

(C) Any such order shall be forthwith complied with by the owner or occupant of the premises, lodging house or building. If the order is made by the Director of the Bureau of Fire Prevention or 1 of the Inspectors, the owner or occupant may, within 5 days, appeal to the Chief of the Fire Department, who shall, within 10 days review the order and file his or her decision thereon and, unless by his or her authority the order is revoked, or modified, it shall remain in full force and be complied with within the time fixed in such order or decision of the Chief of the Fire Department.

(Prior Code, § 6-11) (Ord. 604, § 5)

FIRE BOARD OF APPEALS

§ 93.060 COMPOSITION.

The Fire Board of Appeals shall consist of the Director of the Bureau of Fire Prevention, the city's Attorney, the Building Official and 2 members of the Common Council.

(Prior Code, § 6-12) (Ord. 604, § 6)

§ 93.061 PROCEDURE; QUORUM.

The Fire Board of Appeals shall adopt its own rules of procedure and keep a record of its proceedings and its actions. The presence of 3 members shall be necessary to constitute a quorum.

(Prior Code, § 6-13) (Ord. 604, § 6)

§ 93.062 AUTHORITY; TIME LIMITATION.

(A) Whenever the Chief of the Fire Department shall have reviewed an order of the Director or Inspector of the Bureau of Fire Prevention and filed his or her decision thereon, an appeal from the decision of the Chief of the Fire Department may be taken to the Fire Board of Appeals.

(B) The Fire Board of Appeals shall only hear appeals from the ruling of the Chief of the Fire Department. The appeals shall be made within 10 days from the date on which the Chief of the Fire Department has filed his or her decision on the order before him or her. The appellant shall file with the Bureau of Fire Prevention and with the Fire Board of Appeals a written notice of appeal, specifying the grounds thereof. The Bureau of Fire Prevention shall, upon receiving notice of the appeal, transfer to the Fire Board of Appeals all documents constituting the record upon which the action appealed was taken.

(Prior Code, § 6-14) (Ord. 604, § 6)

§ 93.063 POWERS.

(A) The Fire Board of Appeals is empowered and authorized to modify any of the provisions of orders issued pursuant to this chapter upon application, in writing, by the owner, lessee or his or her duly authorized agent, where there are practical difficulties in the way of carrying out the strict letter of this chapter; provided that, the spirit of this chapter shall be observed, public safety secured and substantial justice done. The particulars of the modification, when granted or allowed and the decision of the Fire Board of Appeals, shall be entered upon the records, and a signed copy shall be furnished the applicant.

(B) (1) The Fire Board of Appeals is empowered and authorized to modify any of the provisions of this chapter where there are practical difficulties in the way of carrying out the strict letter of this chapter; provided that, the spirit of this chapter shall be observed, public safety secured and substantial justice done.

(2) The decision of the Fire Board of Appeals shall be complied with within the time fixed in the order by the Board.

(Prior Code, § 6-15) (Ord. 604, §§ 4,6)

§ 93.064 FURTHER APPEALS.

(A) Any owner or occupant who feels himself or herself aggrieved by any order or affirmed order of the Fire Board of Appeals may, within 10 days after the making or affirming of any such order, file his or her petition with the Circuit Court or Superior Court of Lake County, praying a review of the order.

(B) It shall be the duty of the courts to hear the same on the first convenient day and to make the order in the premises as right and justice may require.

(C) The decision shall be final.

(Prior Code, § 6-16) (Ord. 604, § 6)

SMOKE DETECTORS**§ 93.080 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MOBILE HOME RENTAL. Any mobile home or trailer occupied by or offered for occupancy to an individual as a residence on a rental basis.

MULTIPLE-FAMILY DWELLING UNIT. Any building that contains living quarters for 2 or more occupancies, and shall include hotels, motels, boarding houses, sleeping room houses, buildings of mixed occupancy, having any residential units, nursing homes, convalescent homes, licensed halfway houses or lodging houses.

SLEEPING AREA. The area of a unit in which bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate sleeping areas, but bedrooms or sleeping rooms separated by a bathroom are not separate sleeping areas.

SMOKE DETECTOR. A device which detects particles or products of combustion other than heat, approved by Underwriters' Laboratories, Inc., or Factory Mutual, equipped with a test button, and may be either battery powered, minimum 9 volt or 110 volt AC.
(Prior Code, § 6-31) (Ord. 1816, (part))

§ 93.081 SMOKE DETECTORS REQUIRED.

All multiple-family dwelling units and all mobile home rentals shall be equipped with smoke detectors.
(Prior Code, § 6-32) (Ord. 1816, (part))

§ 93.082 LOCATION.

Smoke detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to the rooms used for sleeping purposes. Where a common hallway is used, smoke detectors shall be spaced not more than 25 feet apart in such hallway. All smoke detectors shall be located either on the ceiling, not less than 6 inches from any wall, or on a wall, not less than 6, nor more than 12 inches from the ceiling, and within 15 feet of all rooms used for sleeping purposes. No detector shall be recessed into the ceiling.

(Prior Code, § 6-33) (Ord. 1816, (part))

§ 93.083 INSTALLATION.

If a smoke detector is AC powered, it must be directly attached to a junction box not controlled by any switch other than the main power supply. The installation of AC powered detectors shall conform to all electrical standards adopted by the city. A smoke detector required under this subchapter shall be installed according to the directions and specifications of the manufacturer, but if in conflict with any city electrical standard, the city electrical standard shall take precedence.

(Prior Code, § 6-34) (Ord. 1816, (part))

§ 93.084 MAINTENANCE.

(A) (1) It is unlawful for any person to tamper or remove any smoke detector except when it is necessary for maintenance or inspection purposes.

(2) Any smoke detector removed for repair or replacement must be reinstalled or replaced so that it is in place during normal sleeping hours.

(B) At every change of tenant in every multiple-family dwelling unit or mobile home rental, smoke detectors shall be tested to see that they are in operable condition.

(Prior Code, § 6-35) (Ord. 1816, (part)) Penalty, see § 93.999

§ 93.085 RESPONSIBILITY.

(A) Every owner, manager or agent of any multiple-family dwelling unit or mobile home rental shall be responsible for the installation and maintenance of all smoke detectors.

(B) This requirement applies to smoke detectors required by any state or federal law as well as by this subchapter, unless otherwise required by state or federal law.
(Prior Code, § 6-36) (Ord. 1816, (part))

§ 93.086 CERTIFICATE OF COMPLIANCE.

(A) Between January 1 and January 31 each year, the owner of each dwelling unit and mobile home in which a smoke detector has been installed shall certify, in writing, on forms prescribed by the city to the Fire Prevention Bureau of the Hobart Fire Department that the required maintenance has been performed on all detectors in the owner's units and that the detectors are in good working condition as of the date of certification.

(B) Each owner shall certify to each new occupant of any dwelling unit and mobile home covered by this subchapter that all smoke detectors required have been installed and are in proper working condition.
(Prior Code, § 6-37) (Ord. 1816, (part))

§ 93.087 ENFORCEMENT AUTHORITY.

The Building Department and the Fire Department of the city shall be charged with the duty of enforcing the terms of this subchapter.
(Prior Code, § 6-38) (Ord. 1816, (part))

RECOVERY OF FIRE PROTECTION COSTS

§ 93.100 RECOVERY OF FIRE PROTECTION COSTS.

(A) Pursuant to I.C. 8-1-2-103(d), the costs for the production, storage, transmission, sale, delivery or furnishing of water for public fire protection purposes ("fire protection costs") shall be included in the basic rates and charges of all customers of Indiana American Water Company, Inc. ("IAWC") located within the City of Hobart in the manner and to the extent permitted by statute.

(B) Effective upon the date of this change in the manner of recovering fire protection costs, IAWC shall cease directly billing the City of Hobart for fire protection costs other than charges for the construction cost for new hydrants installed on and after the date of the change, as provided in I.C. 8-1-2-103(d).

(C) Notwithstanding this change in the recovery of fire protection costs, the construction cost of any fire hydrants installed at the request of the City of Hobart shall continue to be paid for by or on behalf of the City of Hobart.

(Ord. 2005-39, § 1)

§ 93.999 PENALTY.

(A) (1) The imposition of a penalty for any violation of this chapter shall not excuse the violation or permit it to continue. All such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(2) The application of a penalty for the violation of this chapter shall not be held to prevent the enforced removal of prohibited conditions.

(Prior Code, § 6-30) (Ord. 604, § 10)

(B) Anyone found in violation of §§ 93.080 *et seq.*, upon conviction, shall be fined in the amount of not less than \$100, nor more than \$1,000, for each violation. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Prior Code, § 6-39) (Ord. 1816, (part))

Section

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CHAPTER 94: STREETS AND SIDEWALKS

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GENERAL PROVISIONS

§ 94.01 PUBLIC MEETINGS; PERMIT REQUIRED.

Any person or group of persons desiring to hold any public meeting using the public sidewalks and streets of the city shall first obtain from the Mayor a permit to do so. The power to issue and revoke the permit shall be vested and remain solely in the Mayor of the city.
(Prior Code, § 18-1) (Ord. 287, § 8)

§ 94.02 COMPLIANCE WITH PERMIT TERMS.

No procession or parade containing 40 or more persons or 10 or more vehicles, excepting the forces of the United States Army or Navy, the military forces of the state and the forces of the Police and Fire Departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the Chief of Police and such other applicable regulations as set forth in this code or other city ordinances.
(Prior Code, § 18-2)

§ 94.03 OBSTRUCTION OF STREETS AND SIDEWALKS PROHIBITED; EXCEPTION.

(A) It is unlawful for any person to encumber or obstruct any of the streets or sidewalks of the city with any buildings, fences or other structures, vehicles, animals, merchandise for sale or any substance or material for display or advertisement whatsoever, so as to interfere with the free and unrestricted use of such streets and sidewalks.

(B) No person shall, by means of any trees, shrubbery, buildings, structures or other thing whatsoever, obstruct the view on any dedicated public right-of-way.

(C) The provisions of this section shall not apply to any person in the use of a part of the streets or sidewalks under a building permit issued by the city.
(Prior Code, § 18-3) (Ord. 247, §§ 1, 2) Penalty, see § 10.99

§ 94.04 NOISE-MAKING PROHIBITED; EXCEPTION.

It is unlawful for any person to make or cause, permit or allow to be made, upon a public street, or in such close proximity to a public street as to be distinctly and loudly audible upon the public street, any noise of any kind by crying, calling or shouting or by means of any whistle, rattle, bell, gong, clapper, radio, hammer, drum, horn or motor vehicle horn, hand organ, mechanically-operated piano or musical instrument or similar mechanical devices or wind instrument for the purpose of advertising any goods, wares or merchandise or of attracting

attention or inviting the patronage of any person to any business whatsoever; provided that, nothing contained herein shall prohibit or make unlawful the ringing of or sounding of any church bells or chimes located upon, in or about any church or place of worship in the city.
(Prior Code, § 18-4) (Ord. 287, § 2) Penalty, see § 10.99

§ 94.05 DAMAGING STREETS PROHIBITED.

No person shall drive, use or operate any vehicle upon any paved or hard-surfaced street in the city in such a manner as to cut, break or injure the surface of the street.
(Prior Code, § 18-5) Penalty, see § 10.99

EXCAVATIONS AND REPAIRS IN STREETS

§ 94.20 PERMIT REQUIRED.

It is unlawful for any person to cut into, tunnel under any street or alley or through or across any pavement, berm, parkway or sidewalk in the city without first obtaining a permit from the city's Engineer.
(Prior Code, § 18-6) (Ord. 386, § 1) Penalty, see § 10.99

§ 94.21 PERMIT APPLICATION.

At least 48 hours prior to the time when the excavation is to be started, application must be made for a permit which must include the following information:

- (A) Name and address of applicant;
- (B) Type and specific location of the proposed excavation;
- (C) Purpose and extent of the proposed excavation; and
- (D) Other information as required by the city's Engineer.

(Prior Code, § 18-7) (Ord. 386, § 2; Ord. 92-09, (part))

§ 94.22 APPLICATION FEE.

The application must be accompanied by a permit fee as set out in the Fee Schedule of this code.
(Prior Code, § 18-7.1) (Ord. 92-09, (part))

§ 94.23 PERMIT; BOND REQUIRED.

(A) Before any permit shall be issued to any person desiring to perform any of the work contemplated in § 94.20, he or she shall file with the city's Clerk-Treasurer an appropriate bond in the amount as the city's Engineer shall determine, but in no case shall the amount of the bond be less than \$500. The bond shall provide that he or she will faithfully perform and do the work in a manner satisfactory to the city's Engineer. The bond shall further indemnify the city against any damages resulting to third persons as a result of any negligence or improper work done by the person. In the event the work, is to be performed by any plumber, contractor or other person, he or she shall file a bond with the city's Clerk-Treasurer in accordance with the provisions of this section prior to the commencement of any work.

(B) The bond required by this section shall be kept in force by the permittee for a period of at least 1 year after the completion of the work, and shall not be released by the city's Clerk-Treasurer until the permittee has settled all claims, either on behalf of the city or by other persons, resulting from the work. (Prior Code, § 18-8) (Ord. 386, § 4)

§ 94.24 PERMIT; CASH DEPOSIT.

(A) If, in the opinion of the city's Engineer, it is necessary for the protection of the city, he or she may require an additional guarantee that any person receiving a permit under this subchapter will properly replace and repair any pavement that may be cut into or disturbed by work contemplated in § 94.20, a cash deposit of a sufficient amount to cover the costs of the repair shall be paid to the city's Engineer when the permit is issued.

(B) The deposit shall be forfeited to the city, if the repair or replacement has not been made to the satisfaction of the city's Engineer within the time limit specified in the permit and in any case within 60 days from the date of the permit.

(C) In the alternative, a person receiving a permit under this subchapter may file with the city's Clerk-Treasurer a bond, in such amount as the city's Engineer shall determine, to additionally guarantee that the person will repair, replace and put the street, alley, bridge, curb or sidewalk in as good a condition as it was before it was disturbed by the work covered hereunder. (Prior Code, § 18-9) (Ord. 386, § 5; Ord. 92-09, (part))

§ 94.25 PERMIT; TERM.

No permit required by this subchapter shall be granted for a period longer than 60 days without the permission of the Mayor and the Common Council. (Prior Code, § 18-10) (Ord. 386, § 6)

§ 94.26 COMPLETION OF WORK.

All work done under this subchapter shall be completed within 60 days from the date the permit is issued, unless extended by the city's Engineer. (Prior Code, § 18-11) (Ord. 386, § 6)

§ 94.27 INSPECTION; CERTIFICATE OF INSPECTION.

All work contemplated in § 94.20 shall be subject to the inspection of the city's Engineer, and any person performing any of the work shall notify the city's Engineer of the commencement of the work, the progress of the work and the completion of the work. When the work is completed, to the satisfaction of the city's Engineer, he or she shall issue a certificate of final inspection.

(Prior Code, § 18-12) (Ord. 386, § 7)

§ 94.28 SAFETY PRECAUTIONS.

The permittee under this subchapter, or his or her agent, servant or employee shall agree to maintain barricades, lights, signals, watchpersons or temporary crossovers, and to take all necessary precautions to safeguard persons and property and to maintain the pavement, berm, parkway or sidewalk while under construction and until such time as permanent replacement and repairs are made, satisfactory to the city's Engineer.

(Prior Code, § 18-13) (Ord. 386, § 3)

BENCHES AT BUS STOPS**§ 94.40 PURPOSE.**

The purpose of this subchapter is to assist the public in the use of the streets by providing, subject to the regulations of the Mayor and the Common Council, benches for the use of the public. Nothing contained in this subchapter shall be construed as permitting the placing of advertising matter upon any device in the public streets other than the benches permitted by this subchapter.

(Prior Code, § 18-14) (Ord. 483, § 10)

§ 94.41 ADVERTISING PERMITTED.

It is made lawful for persons to install and maintain benches located upon public property for the accommodation of persons awaiting public bus transportation and others and to place advertising matter and signs upon such benches, subject to the regulations, limitations and qualifications of this subchapter. The Mayor and Common Council reserve the power to make all reasonable regulations for carrying out the provisions of this subchapter and the issuing of all permits.

(Prior Code, § 18-15) (Ord. 483, § 1) Penalty, see § 10.99

§ 94.42 PERMIT REQUIRED; APPLICATION.

No bench shall be installed or maintained under this subchapter without a permit. An applicant for a permit under this subchapter shall submit his or her written application to the city's Clerk-Treasurer, giving the location of the proposed benches and such other information as the Common Council and the Mayor shall require.

(Prior Code, § 18-16) (Ord. 483, § 2) Penalty, see § 10.99

§ 94.43 PERMIT; FEE; TERM.

Each application for a permit under this subchapter shall be accompanied by the annual permit fee as set out in the Fee Schedule of this code for each bench. Permits issued under this subchapter shall expire on June 30 of each year.

(Prior Code, § 18-17) (Ord. 483, § 3)

§ 94.44 PERMIT; TERMINATION PROVISIONS.

Each permit so issued by the city shall contain a provision that in the event of a cancellation or termination by the city of 1 or all permits granted that the permittee herein waives all rights of action in law or in equity against the city which may have accrued or which may hereafter accrue by virtue of the cancellation and termination.

(Prior Code, § 18-18) (Ord. 483, § 11)

§ 94.45 PERMIT; DENIAL; CANCELLATION.

The application for a permit for any bench shall be denied or the permit canceled under any of the following circumstances:

(A) If the Mayor or the Common Council, at any time, finds that the maintenance of a bench at the granted or proposed location would tend to obstruct passage along a public way or to create a hazard to persons traveling thereon;

(B) If the Mayor or Common Council, at any time, finds that the maintenance of a bench at the granted or proposed location would not promote the convenience of the traveling public or allow free and customary use of any street, alley or sidewalk;

(C) If, at the proposed location, the distance from the face of the curb to the property line is less than 8 feet, unless the Mayor and the Common Council find that to maintain a bench at the location is in the interest of the convenience of the traveling public; and

(D) If the ends are not made of concrete, the back 3/4-inch plywood and seat boards of 3 boards 2 by 6 by 7 feet.

(Prior Code, § 18-19) (Ord. 483, § 4)

§ 94.46 MAINTENANCE; REMOVAL.

By acceptance of a permit, the permittee agrees to be bound by all the provisions of this subchapter, agrees to inspect each bench periodically and to maintain the bench or benches in a safe, clean and sightly condition and to post and maintain public liability insurance as required. The Mayor and Common Council reserves the right

to order the removal of any such bench at any time when, in its opinion, the interest of the public will be best served by the removal of the bench. If any such bench is ordered removed by the Mayor and Common Council and the same is not done within 30 days of the mailing of written notice to so remove any such bench to the permittee, the Mayor and Common Council may revoke the permit and take whatsoever action is deemed necessary for the removal of the bench, without any liability on the part of the members of the Common Council individually or the Mayor of the city, or of the city.
(Prior Code, § 18-20) (Ord. 483, § 5)

§ 94.47 SPECIFICATIONS.

No bench permitted by this subchapter shall be more than 7 feet in length, nor more than 25 inches in depth, nor more than 42 inches in height, nor more than 6 inches thick. The benches shall be of uniform painting and construction, the ends and legs thereof to be made of concrete and the seats and backs thereof to be made of hardwood or plywood. The benches shall be constructed in a workmanlike manner.
(Prior Code, § 18-21) (Ord. 483, § 6) Penalty, see § 10.99

§ 94.48 ADVERTISING; CERTAIN WORDS PROHIBITED.

No advertising placed on benches permitted by this subchapter shall contain words that might tend to cause traffic confusion, such as “stop”, “damage”, “drive in” or other such words.
(Prior Code, § 18-22) (Ord. 483, § 6) Penalty, see § 10.99

§ 94.49 ADVERTISING; OBJECTIONABLE MATERIAL PROHIBITED.

No advertising shall be placed on the benches advertising the sale of intoxicating spirits and no lewd or obscene advertising shall be placed upon the benches and in the event any advertising is placed upon the benches which is objectionable to the Mayor and Common Council of the city, the city shall have the right in that event to order the removal of the advertising, and in the event the advertising is not removed within 30 days to cancel all permits heretofore issued and require the removal of all benches from the city and the agreement as herein authorized shall be terminated without any liability on the part of the city.
(Prior Code, § 18-23) (Ord. 483, § 6) Penalty, see § 10.99

§ 94.50 INSURANCE REQUIRED.

Before proceeding to install any bench the permittee shall furnish to and file with the city’s Clerk-Treasurer and, at all times, keep in effect a policy of insurance in some company approved by the Common Council naming the permittee and the city as assured, which shall be in such form and with such conditions as to protect the city against all claims for death or injury resulting from the installation, use or maintenance of the benches and to pay all damages which may be recovered against the city as a result of any such suit or suits. The policy shall be conditioned to pay all damages not exceeding the sum of \$25,000, for the death or injury of any 1 person and with a total limit of liability for death or injury of not less than \$50,000 and \$5,000 for property damage. If, at any

time, by reason of judgments obtained the city shall feel itself insecure against further claims, additional insurance shall be furnished so that, at all times, the city shall be protected against the losses to the extent of \$50,000.

(Prior Code, § 18-24) (Ord. 483, § 7)

SIDEWALKS, DRIVEWAYS AND PARKWAYS

§ 94.65 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PARKWAY. That area of land lying between the edge of the street, whether paved or unpaved, and the edge of the sidewalk adjacent to and paralleling the street. Where no sidewalk exists, the term shall mean and refer to that area of land lying between the edge of a street and a line parallel to and 15 feet away from the edge of the street.

PAVE, REPAVE and CAUSE TO BE PAVED. The act of covering or surfacing an area with asphalt, concrete, gravel, rock or other materials used in road or street building. The installation of bricks or decorative stone as landscaping and not for the purpose of parking shall not be considered paving.

PERSON. Any asphalt contractor, concrete contractor, general contractor, landowner, individual, corporation, partnership, joint venture, trust, trustee, beneficial owner or a land trust, nominee of a landowner or any other legal entity.

PROPERTY OWNER. Any person who has an ownership interest in real estate, legal or equitable, partial or absolute, or as a landlord or tenant. Mortgagees and other lien holders shall not be deemed landowners unless and until they acquire ownership by deed or by operation of law.

(Ord. 2002-28, § 1)

§ 94.66 REPAIR AND MAINTENANCE OF SIDEWALKS AND DRIVEWAYS.

(A) *Responsibility of repair and maintenance of abutting sidewalks and driveways.* The responsibility for the repair and maintenance of sidewalks and driveways within the city is hereby deemed to be that of abutting property owners. Property owners shall be responsible for maintaining the abutting sidewalks in a reasonably safe condition, and shall repair and maintain the abutting sidewalk at their own expense as and when needed, in the opinion of the Building Commissioner or his or her designee.

(B) *Notice of order to repair.* Should a property owner fail to maintain his or her abutting sidewalk and/or driveway in a reasonably safe condition, then, in the interest of the health, safety and general welfare of the public, the city, in its sole discretion, may issue a notice or an order to repair the sidewalk and/or driveway to the responsible owner.

(C) *Issuance and service of notice to repair.*

(1) Notice of an order to repair or improve any sidewalk and/or driveway within the city shall be issued by the Building Commissioner or his or her designee. The notice shall be addressed to the common address of the property in question and also to the address of the property owner, if different, and shall be sent by certified mail.

(2) The property owner shall perform the requested repairs or improvements to the sidewalk and/or driveway within 30 days from the date of the notice as required by the notice, or any extended time therefrom allowed by the Building Commissioner or his or her designee.

(D) *Contract for repair.* In the event any property owner fails to comply with the order to repair any sidewalk or driveway with the city issued by the Building Commissioner or his or her designee, the Board of Public Works and Safety, in its sole discretion, may have the sidewalk or driveway constructed or repaired. In causing the sidewalk or driveway to be constructed or repaired, the Board of Public Works and Safety may let a general contract for the making or repairing of all sidewalks and/or driveways subject to the issued order. The letting of any contract under the provisions of this section shall be governed by the laws of the state regulating contractual authority of the Board of Public Works and Safety for such matters, as they may be amended from time to time.

(E) *Assessments.* Assessments for the construction or repair of sidewalks or driveways shall be levied and collected pursuant to the terms of I.C. 36-9-36, as amended from time to time.
(Ord. 2002-28, § 1)

§ 94.67 PARKWAY MAINTENANCE.

(A) The property owner whose property abuts a street or alley shall maintain and care for any parkway which adjoins or is a part of his or her property. The maintenance and care shall include, but not be limited to, the planting and regular mowing of grass, trimming of bushes and trees and the maintenance of flower beds.

(B) No person may hereafter pave, repave or cause to be paved, all or any part of a parkway, except as part of a permitted driveway or driveway apron.
(Ord. 2002-28, § 1) Penalty, see § 10.99

§ 94.68 EFFECTIVE DATE.

The provisions of this subchapter shall take effect immediately upon passage.
(Ord. 2002-28, § 2)

Hobart - General Regulations

Section

- 95.01 Regulations; enforcement authority
- 95.02 Trimming, planting; ~~CHAPTER 95 PERMITS~~ **TREES AND SHRUBS**
- 95.03 Removal; notice
- 95.04 Appeal regarding dead trees
- 95.05 Trimming services; license required; fee; license revocation
- 95.06 Compliance with authority required

§ 95.01 REGULATIONS; ENFORCEMENT AUTHORITY.

The Common Council or the Board of Public Works and Safety shall have the power from time to time to adopt and enforce rules, regulations and specifications for the trimming, removal, planting and protection of all trees, shrubs, vines, hedges, flowers and plants within the limits of any public street, alley, thoroughfare or lawn in the city, and shall have the power to regulate and prescribe terms and conditions upon which permits to trim, remove or plant any such trees, shrubs, vines, flowers or plants within the city shall be granted. (Prior Code, § 22-1) (Ord. 455, § 1)

§ 95.02 TRIMMING, PLANTING; PERMISSION REQUIRED.

It is unlawful for any person to trim, remove, plant, injure or destroy any trees, shrubs, vines, flowers or plants within the limits of any public street, alley, thoroughfare, lawn, park, parkway or boulevard, without first obtaining written permission from the Board of Public Works and Safety. (Prior Code, § 22-2) (Ord. 455, § 2) Penalty, see § 10.99

§ 95.03 REMOVAL; NOTICE.

The Common Council or the Board of Public Works and Safety of the city may require the owner or occupant of property abutting any street or alley to remove or trim any tree, shrub, vine, flower or plant, or any part thereof, in front of the property of any such owner or occupant thereof which may be dead or in an unsightly or dangerous condition or which may project over the street beyond the property line of the occupant to a height of 10 feet or less, according to size, or any tree obstructing the free passage of pedestrians on the sidewalk, by first causing notice to be served on the owner or occupant of the premises adjoining the street or alley 10 days prior to the time designated for the removal or trimming of any such tree, shrub, vine, flower or plant. (Prior Code, § 22-3) (Ord. 455, § 3)

§ 95.04 APPEAL REGARDING DEAD TREES.

(A) Any property owner or occupant of property receiving a notice under § 95.03 or who has been denied written permission required in § 95.02 may appeal to the Board of Public Works and Safety.

(B) For the purpose of appeal, an affidavit from a forest ranger from the Department of Natural Resources of the National Park Service or from a professional who is fully licensed and employed in the business of tree removal shall be competent evidence as to whether a tree, brush, or shrub is “dead or in a dangerous condition”.

(Prior Code, § 22-3.1) (Ord. 94-05, § 1)

§ 95.05 TRIMMING SERVICES; LICENSE REQUIRED; FEE; LICENSE REVOCATION.

(A) It is unlawful for any person to engage in the business of planting, cutting, removing or spraying trees, shrubs, vines and similar planting in the city without first procuring from the city’s Clerk-Treasurer on an application approved by the Board of Public Works and Safety, a license each year authorizing any such person to engage in such business. The Board of Public Works and Safety shall not approve any such application without first being satisfied of the competency of the applicant to engage in such business. Upon the issuance of license by the city’s Clerk-Treasurer, the applicant shall pay a license fee as set out in the Fee Schedule of this code, which shall entitle him or her to conduct any such business during the calendar year within which the license is issued.

(Prior Code, § 22-4)

(B) The Board of Public Works and Safety shall have the power to revoke any license issued under the provisions of this chapter, whenever it shall appear to the Board that the licensee has violated any of the rules of the Board which may be adopted in accordance with the provisions of this chapter or has violated any provision of this code or other ordinance of the city or any law of the state, pertaining to the care, preservation, trimming or removal of trees or similar planting in the city.

(Prior Code, § 22-5)

(Ord. 455, § 5) Penalty, see § 10.99

§ 95.06 COMPLIANCE WITH AUTHORITY REQUIRED.

No person shall fail or refuse to carry out any of the directives of the Common Council or the Board of Public Works and Safety, relative to the trimming of trees and shrubs or their removal, where the trees, shrubs and other plants are growing on property dedicated to the city for streets and parkways where the owners of the property abut the streets, alleys or parkways.

(Prior Code, § 22-6) (Ord. 455, § 6) Penalty, see § 10.99

Section

96.01	Definitions
96.02	Illustrative enumeration CHAPTER 96: NUISANCES
96.03	Notice to abate
96.04	Contents of notice
96.05	Service of notice
96.06	Abatement by city
96.07	Recovery of city's cost
96.99	Penalty

§ 96.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABATEMENT OF NUISANCE. The owner of any such junked vehicle and the owner or lessee or other person in possession of private land upon which any such junked vehicle is located, shall, upon appropriate notice, jointly and severally abate the nuisance by the removal of any such junked vehicle into a completely enclosed garage or other building authorized to be used for such storage purposes if within the corporate limits of the city, or otherwise to remove it to a location without the corporate limits.

NUISANCE. The doing of an unlawful act, or the omitting to perform a duty, or the suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others;
- (2) Offends decency;
- (3) Is offensive to the senses;
- (4) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, way, alley, parking area, stream, ditch or drainage way;
- (5) In any way renders other persons insecure in life or the use of property; and/or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

PROHIBITION OF UNSHELTERED STORAGE. It shall be unlawful to park, store, or keep or permit to be parked, stored or kept in the open upon public or private land within the corporate limits of the city a junked vehicle, except in properly zoned areas.

REMOVAL OF JUNKED VEHICLES.

(1) The term “junked vehicle” is hereby defined to mean and include any dismantled, abandoned, wrecked, junked or other motor vehicle legally or physically incapable of being operated.

(2) Unsheltered storage of a junked vehicle on public or private property is hereby declared to be a nuisance detrimental to the health, safety and welfare of the inhabitants of the city.
(Ord. 95-36, § 1) Penalty, see § 96.99

§ 96.02 ILLUSTRATIVE ENUMERATION.

The maintaining, using, placing depositing, leaving or permitting to be or remain on any public or private property of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (A) Noxious weeds and other rank vegetation;
- (B) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things;
- (C) Any condition which provides harborage for rats, mice, snakes and other vermin;
- (D) Any building or other structure which is in such dilapidated condition that it is unfit for human habitation, kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinary dangerous fire hazard in the vicinity where it is located;
- (E) All unnecessary or unauthorized noises and annoying vibrations, include noises;
- (F) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches;
- (G) The carcasses of animals or fowl not disposed of within a reasonable time after death;
- (H) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial waste or other substances;
- (I) Any building, structure or other place or location, where any activity which is in violation of local, state or federal law is conducted, performed or maintained;

(J) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground;

(K) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities;

(L) The unauthorized obstruction of any public street, road or sidewalk;

(M) Any abandoned vehicle; and

(N) Any condition which defaces, injures, mars or spoils the external appearance of property.

(Ord. 95-36, § 2)

§ 96.03 NOTICE TO ABATE.

Whenever a nuisance is found to exist within the city or within the city's extraterritorial jurisdiction, the city's Street Commissioner, city's Engineer, police officer of the city and/or Building Inspector or Code Enforcement Officer may give written notice to the owner or occupant of the property upon which the nuisance exists or upon the person causing or maintaining the nuisance.

(Ord. 95-36, § 4)

§ 96.04 CONTENTS OF NOTICE.

The notice to abate a nuisance issued under the provisions of this chapter shall contain:

(A) A notice to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances;

(B) The location of the nuisance, if the same is stationary;

(C) A description of what constitutes the nuisance;

(D) A statement of acts necessary to abate the nuisance; and

(E) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the city may abate such nuisance and assess the costs thereof against the person.

(Ord. 95-36, § 5)

§ 96.05 SERVICE OF NOTICE.

The notice to abate a nuisance shall be served as authorized by law.

(Ord. 95-36, § 6)

§ 96.06 ABATEMENT BY CITY.

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this chapter to abate the same, a duly designated officer or employee of the city may proceed to abate the nuisance and shall prepare a statement of costs incurred in the abatement thereof. If it is necessary for the city to contract for services to abate the nuisance, the city may proceed to abate the nuisance under a contract provision.

(Ord. 95-36, § 7)

§ 96.07 RECOVERY OF CITY'S COSTS.

(A) Any and all costs incurred by the city in abatement of a nuisance under the provision of this chapter shall constitute a lien against the property upon which the nuisance existed and shall be certified by the Clerk-Treasurer to the county's Auditor who shall cause the cost to be placed on the tax duplicate of the owner of the property and the costs shall then be collected from the owner as other taxes are collected.

(B) In addition, the costs shall be debt which may be collected by the city in appropriate civil action.

(Ord. 95-36, § 8)

§ 96.99 PENALTY.

Any person who causes, permits, maintains or allows the creation or maintenance of a nuisance shall be punished by a fine not to exceed \$2,500. Every day any violation of this chapter or that a nuisance exists or continues shall constitute a separate offense. The fine provided for in this section shall be the maximum fine which shall be imposed in those cases where other provisions provide for a minimum fine, but does not provide for a maximum fine.

(Ord. 95-36, § 3)

Section

97.01	Purpose
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CHAPTER 97: PRIVATE EMERGENCY ALARM SYSTEMS

§ 97.01 PURPOSE.

It is declared to be the purpose of this chapter to reduce the number of false alarms activated by private emergency alarm systems.
(Ord. 2003-20, § 1)

§ 97.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALARM. An audible, mechanical or electrical signal from which a detection system indicates a disturbance of the detection system or some other activity that requires urgent attention.

ALARM SYSTEM.

(1) Any assembly of equipment which is designed or functions to provide an audible, mechanical, electrical signal or automatic dialing device which indicates a disturbance or some other activity that requires urgent attention.

(2) For the purposes of this chapter, an **ALARM SYSTEM** shall not include:

- (a) An alarm installed on a motor vehicle;
- (b) A smoke or carbon monoxide detector not connected to an automatic dialing device; and/or

(c) A residential alarm equipped to only emit an audible alert without automatic dialing device that resets within 15 minutes upon false activation.

ALARM USER. Any individual, corporation, partnership or other legal entity in ownership or control of an alarm system.

AUTOMATIC DIALING DEVICE. Any device connected to an alarm system which automatically sends a prerecorded message or coded signal to a selected phone number indicating the need for an emergency response.

EMERGENCY SERVICE PERSONNEL. An employee or employees of the Hobart Police Department, Hobart Fire Department or the Hobart Communications Center who routinely respond to a summons for assistance when there is a reasonable belief that the need exists.

FALSE ALARM. An alarm eliciting an emergency response when the situation does not require emergency services. For the purposes of this chapter, this does not include alarms triggered by severe atmospheric conditions.

PERMIT HOLDER. The individual, corporation, partnership or other legal entity of which an alarm system permit is issued.
(Ord. 2003-20, § 2)

§ 97.03 ALARM SYSTEM PERMIT REQUIRED.

(A) It shall be unlawful for anyone who owns or controls property to operate, cause to be operated or permit the operation of an alarm system on that property unless a current alarm system permit has been obtained from the Hobart Clerk-Treasurer's Office. However, no permit shall be required for an alarm system located on a private residence if it only has external alarm that automatically stops within 15 minutes after activation, unless emergency service personnel are routinely notified and dispatched to a private residence to investigate the alarm.

(B) Anyone who violates this section shall be subject to § 97.99 unless an alarm system permit is obtained within 10 days after receiving notification of the violation.

(C) Any activation occurring within the first 30 days after installation of a new alarm system shall be exempt.
(Ord. 2003-20, § 3) Penalty, see § 97.99

§ 97.04 APPLICATION FOR ALARM SYSTEM PERMIT.

(A) Application for a permit for the operation of an alarm system shall be made by a person or legal entity having ownership, a leasehold interest in, or control over the property on which the alarm system is installed and operational. The application shall be made in writing to the Hobart Clerk-Treasurer's Office within 5 days following installation of an alarm system and prior to its operation.

(B) The application shall include the following information:

- (1) Street address of the property on which the alarm system is operational;
- (2) Any business name and owner name used for the premises on which the alarm system is operational;
- (3) Name of the person or alarm system business that will install the alarm system;
- (4) Name and telephone numbers of 2 people or of an alarm system business, which have agreed:
 - (a) To receive notification at any time;
 - (b) To come to the alarm site within 45 minutes after receiving a request from emergency service personnel to do so; and
 - (c) To grant access to the alarm site and to deactivate the alarm system if such becomes necessary.
- (5) Name and location of any potentially hazardous materials stored in the business.
(Ord. 2003-20, § 4)

§ 97.05 ISSUANCE OF ALARM SYSTEM PERMIT.

(A) The Clerk-Treasurer’s Office shall issue an alarm system permit to the person or legal entity in possession or control of the property upon application and payment of the permit fee, unless the Clerk-Treasurer’s Office finds that the application was incomplete or false. The Clerk-Treasurer’s Office shall deposit the application fee in the General Fund for maintenance of the private emergency alarm system procedure. The permit shall contain a registration number.

(B) After receipt of the application, the Hobart Communications Center supervisor shall record the application data for use by emergency service personnel. All information shall be protected as confidential; provided, however, nothing in this chapter shall prohibit the use of such information for law enforcement purposes or for enforcement of this chapter.

(C) The permit holder shall promptly notify the Clerk-Treasurer’s Office in writing of any change of information contained in the permit application. Failure to keep the emergency information, information required in § 97.04(B)(4) and (5), current shall be subject to § 97.99.
(Ord. 2003-20, § 5)

§ 97.06 PERMIT FEE AND TERM.

(A) The fee for an alarm system shall be as set out in the Fee Schedule of this code per year.

(B) An alarm system permit issued pursuant to this chapter shall be personal to the permit holder for a specific location and is not transferable.
(Ord. 2003-20, § 6)

§ 97.07 PROHIBITED ACTIVITY.

(A) It shall be unlawful for a person who owns, leases or controls property on which an alarm system is installed to issue, cause to be issued or permit the issuance of more than 3 false alarms in any 1 calendar quarter; provided, however, this section shall not apply to an alarm system which emits a false alarm within 30 days after installation of the alarm system.

(B) A person who owns, leases or controls property on which an alarm system is installed shall receive a warning from the Hobart Police Department for the 3 false alarms issued by such alarm system during any 1 calendar quarter.

(C) This section shall apply to all locations in the City of Hobart with alarm systems installed prior to and after enactment of this chapter.

(Ord. 2003-20, § 7; Ord. 2006-01, § 1) Penalty, see § 97.99

§ 97.08 ENFORCEMENT.

The person who owns, leases or controls the property on which an alarm system is installed shall receive written notice of each violation of this chapter. Each false alarm over the first 3 false alarms in a calendar quarter constitutes a separate offense subject to § 97.99.

(Ord. 2003-20, § 8; Ord. 2006-01, § 1)

§ 97.99 PENALTY.

Violations of this chapter are subject to the jurisdiction of the Ordinance Violations Bureau.

(Ord. 2003-20, § 9; Ord. 2006-01, § 1)

Section

- 98.01 Regulations regarding the use of consumer fireworks
 - 98.99 Penalty
- CHAPTER 98: FIREWORKS**

§ 98.01 REGULATIONS REGARDING THE USE OF CONSUMER FIREWORKS.

(A) *Definition.* For the purposes of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CONSUMER FIREWORKS. For purposes of this chapter, consumer fireworks shall mean consumer fireworks as defined by I.C. 22-11-14-1.

(B) *Days and hours of use.* Consumer fireworks may not be used, ignited or discharged within the corporate limits of the City of Hobart except during the following times:

(1) Between the hours of 5:00 p.m. and 2 hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8 and July 9;

(2) Between the hours of 10:00 a.m. and twelve midnight on July 4; and

(3) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

(Ord. 2007-19, § 1)

§ 98.99 PENALTY.

The use, ignition or discharge of consumer fireworks other than during the above time periods shall constitute an ordinance violation. The first offense each year is subject to a minimum \$100 fine and is subject to the jurisdiction of the Ordinance Violations Bureau. Subsequent offenses are subject to a fine up to a maximum of \$2,500, and require appearance in Hobart City Court.

(Ord. 2007-19, § 2)

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