

**BEFORE THE COMMON COUNCIL OF THE CITY OF HOBART, INDIANA**

**ORDINANCE NO. 2016-03**

**An Ordinance to Amend the Municipal Code of the City of Hobart  
Concerning Permitted and Prohibited Fires**

WHEREAS, the Common Council (“Council”) of the City of Hobart, Indiana (“City”) has taken notice of a number of instances in which the current provisions of the Hobart Municipal Code (“Code”) do not regulate fires for land management purposes; and

WHEREAS, the Council believes that it is in the bests interest of the residents of the City to limit fires for land or forest management purposes; and

WHEREAS, open burning for all purposes is the subject of rules and regulations issued through the Indiana Department of Environmental Management by the State Air Pollution Control Board appearing at 326 IAC §4-1-1, *et seq.*, but Section 1 of that Rule (326 IAC §4-1-1) provides, in pertinent part, that: “This rule applies to all open burning except for the following . . . (2) Except as provided in IC §13-17-9-3, where open burning allowed under this rule is prohibited by other state or local laws, regulations, or ordinances.”326 IAC 4-1-1(2); and

WHEREAS, the above referenced Rule therefore allows “local laws, regulations and ordinances” to restrict or limit open burning to an extant greater than the Rule; and

WHEREAS, the Council now desires to further limit and restrict open burning in the City through the provisions of this Ordinance.

THEREFORE, BE IT ORDAINED by the Common Council of the City of Hobart, Indiana as follows:

*SECTION ONE:* The Municipal Code of the City of Hobart, Indiana (“Code”), Chapter 93 on FIRE PROTECTION is hereby amended by striking out the entirety of §93.004 now entitled BONFIRES PROHIBITED; EXCEPTION, and inserting in lieu thereof the following new section:

**§93.004 PERMITTED AND PROHIBITED FIRES.**

(A) It shall be unlawful for any person to kindle or maintain any fire or authorize any such fire to be kindled or maintained on or in any street, alley or road, nor upon any public property unless written permission to do so shall first have been obtained by the City Fire Chief or his designee.

(B) 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 compostible materials, garbage, refuse, rubbish, waste, debris and recyclables. Recreational campfires or bonfires are allowed on private property but they must only burn wood or artificial wood products designed to be burned in campfires. They must be kindled and maintained in a wire, metal, concrete or similar non-flammable container enclosure and must be kept under the direct and constant supervision of a competent person. Campfires, barbecue grills, lamps and heaters that burn charcoal, oil, natural gas, propane or other fuel are permitted on private property as long as they are used according to the manufacturer's instructions.

(C) Except as specified in this subsection, it shall be unlawful for any person to kindle or maintain any fire or authorize any fire to be kindled or maintained on public or private property within the corporate limits of the City of Hobart for land or forest management purposes. Fires shall be allowed for land and forest management purposes in areas that are zoned agricultural and all portions thereof are situated at least 1000 feet away from any area of land within the City zoned residential (R1, R2 or R3). Open burning for land or forest management purposes must be performed by the property owner and kept under his or her direct and constant supervision. Fires shall be allowed for land or forest management purposes if performed by governmental entities such as Indiana Department of Natural Resources, U. S. Forest Service or National Park Service, by and through their own employees, without restriction.

(D) Open burning for land and forest management purposes shall be conducted subject to the following rules:

- 1) A person who open burns shall extinguish the fire if the fire creates a nuisance or fire hazard;
- 2) Burning may not be conducted during unfavorable meteorological conditions such as any of the following:
  - (i) High winds.
  - (ii) Temperature inversions.
  - (iii) Air stagnation.

(iv) When a pollution alert or air quality action day has been declared.

3) All fires must be attended at all times during burning until completely extinguished.

4) Asbestos containing materials may not be burned.

5) A fire shall be extinguished if at any time it creates a:

- (i) pollution problem;
- (ii) threat to public health;
- (iii) nuisance; or
- (iv) fire hazard.

(6) All burning shall comply with other federal, state, and local laws, rules, and ordinances.

(7) Adequate firefighting equipment shall be on-site for extinguishing purposes during burning times.

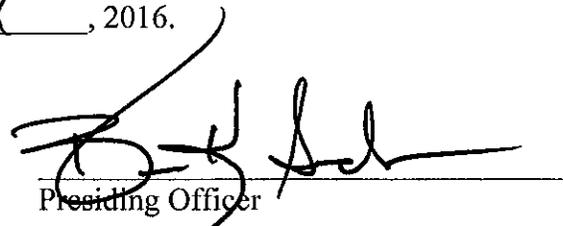
(8) Burning shall be conducted during daylight hours only, and all fires shall be extinguished before sunset.

(E) Violations of this section shall be enforceable before the City Court as in the case of other ordinance violations. Violation of this Section is subject to the penalties prescribed in §10.99 of the Municipal Code.

*SECTION TWO:* This ordinance shall become effective upon its adoption in the manner required by law, and upon publication thereof pursuant to I.C. §36- 3-4-6-14(b) in two newspapers of general circulation published within the City pursuant to I.C. §5-3-1-4 (a).

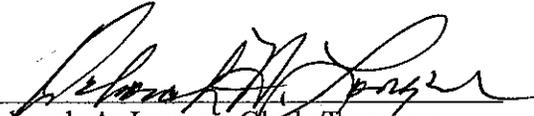
*SECTION THREE:* All ordinances or portions thereof in effect prior to the effective date and in conflict with the provisions of this ordinance are hereby repealed.

ALL OF WHICH is PASSED and ADOPTED by the Common Council of the City of Hobart, Indiana on this 16<sup>th</sup> day of MARCH, 2016.

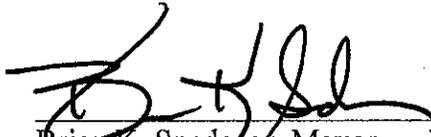
  
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Presiding Officer

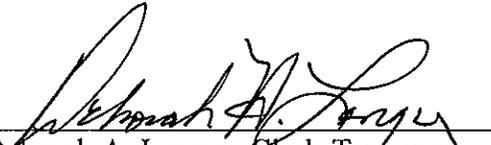
ATTEST:   
Deborah A. Longer, Clerk-Treasurer

PRESENTED by me to the Mayor of the City of Hobart on the 16<sup>th</sup> day of March, 2016 at the hour of 6:45 pm.

  
Deborah A. Longer, Clerk-Treasurer

APPROVED, EXECUTED and RETURNED by me to the Common Council of the City of Hobart on this 16<sup>th</sup> day of MARCH, 2016.

  
Brian K. Snedecor, Mayor

ATTEST:   
Deborah A. Longer, Clerk-Treasurer