

ORDINANCE NO. 3588

AN ORDINANCE AMENDING ORDINANCE NO. 3522 BEING ENTITLED "AN ORDINANCE TO REGULATE SMOKE AND CONTROL AIR QUALITY WITHIN THE CITY OF HAMMOND, INDIANA, AND TO ESTABLISH THE SECTION OF AIR CONTROL WITH IN THE DEPARTMENT OF HEALTH," PASSED BY THE COMMON COUNCIL ON THE 23rd DAY OF JANUARY, 1967 AND APPROVED BY THE MAYOR ON THE 30th DAY OF JANUARY 1967.

BE IT ORDAINED, by the Common Council of the City of Hammond, Indiana:

SECTION 1. That Section 1.2 of said Ordinance #3522 is hereby amended to read as follows:

Section 1.2 PURPOSE.

This Ordinance is designed to control air pollution by establishing the Department of air Pollution Control in the city of Hammond, Indiana and prescribing the duties of the Chief of air pollution control, empowering investigation and abatement by the Chief of violations of this ordinance, providing for the establishment and enforcement of rules and regulations, providing for an Air Pollution Control Board, providing for registration of air Pollution sources, permits for the installation, construction, addition to, alteration, and use of process, fuel-burning, refuse-burning, and control equipment and for the issuance of certificates of operation and for fees therefor, establishing limitations upon the emission of air pollutants, declaring emissions which do not meet such limitations to be unlawful and a public nuisance, prohibiting certain acts causing air pollution, providing for fines and penalties for violation of the provisions of this ordinance, and providing just and adequate means by which the provisions of this ordinance may be executed.

SECTION 2. That sub-sections (f) and (i) of Section 1.3 of said Ordinance #3522 are hereby amended to read as follows:

Section 1.3 DEFINITION OF TERMS.

(f) Board. The Board created by this Ordinance e to be known as the Air Pollution control board and to act as provided for pursuant to Section 2.4 of this Ordinance.

ORDINANCE NO. 3588 (continued)

(i) Chief. Chief of the Department of Air Pollution control of the city of Hammond or his authorized representative.

SECTION 3. That Section 1.3 of said Ordinance #3522 is hereby further amended by deleting from said Ordinance sub-sections (n) and (t).

SECTION 4. That the said Ordinance #3522 is hereby amended by inserting the term "Department of Air Pollution Control" in any and all such places where the term "Section", referring to the Air Pollution Control Section, appears in Ordinance #3522.

SECTION 5. That Section 2.1 of said Ordinance #3522 is here by amended to read as follows:

Section 2.1 Administrative Organization and Enforcement.

(a) This Ordinance shall be effective territorially throughout the City of Hammond, Indiana.

(b) The administration and enforcement of this Ordinance shall be conducted by the Department of air Pollution control, headed by a Chief.

(c) There is hereby created the position of Chief of Air Pollution control. He shall be appointed by the Mayor.

(d) The Chief shall perform such duties as may be required of him relative to Air Pollution Control. He shall have control of all matters and things pertaining to the work of the Department, and shall supervise the execution of all laws, rules, and regulations pertaining to air pollution as provided in this Ordinance.

(e) The director shall be qualified by technical training and have at least three years experience in the theory and practice of the construction and operation of furnaces, combustion devices, or in the theory and practice of air quality control and shall be qualified by education and experience to cooperate with scientific educational, and civic organizations interested in pollution control.

SECTION 6. That sub-section (l) and (n) of Section 2.2 of said Ordinance #3522 are hereby amended to read as follows:

ORDINANCE NO. 3588 (continued)

Section 2.2 Powers and Duties of the Chief.

(l) Make all needful rules and regulations pertaining to the administration of the Department of Air Pollution Control; said rules and regulations shall be submitted to the Mayor and Department for approval.

(n) Report to the Mayor and the air Pollution control board with respect to recommendations for needed additions or revisions of this Ordinance.

SECTION 7. That Section 2.4 of said Ordinance #3522 is hereby amended to read as follows:

Section 2.4 Air Pollution Control board.

A. An air Pollution control board shall be appointed by the Mayor. The Chief may make recommendations to the Mayor for such appointments. This board shall study the problem of air pollution control within the city, and shall from time to time recommend to the chief appropriate means of air pollution abatement, including needed additions to or revisions of this ordinance.

B. The air Pollution Control Board shall consist of not less than seven (7) nor more than nine (9) members. Not more than two (2) members of said Board shall hold any public office. Said board shall consist of at least one of the following: a chemist or engineer, at least one physician licensed to practice medicine in Indiana, and at least one attorney licensed to practice law in Indiana. Two (2) members shall be appointed for a term of one year, two (2) members for a term of two years, and the remainder for a term of three years. This provision shall be implemented by the Mayor on future replacements or vacancies so as to provide for the aforementioned qualified members in an orderly transition from the aforementioned method of appointing Board members.

C. The Air Pollution control Board shall elect its own chairman and Secretary. A quorum shall consist of a majority of the members of the board. It shall meet at the call of the chairman, and all members shall serve without compensation. The Mayor shall appoint additional members to fill all vacancies. The Chief shall be an ex-officio member of the board without the right to vote.

ORDINANCE NO. 3588 (continued)

D. The air Pollution control board shall hold a regular meeting at least quarterly and other meeting at such additional times as may be called by the chairman. The chairman shall call a special meeting upon written request of at least three members of the air Pollution control board or at the request of the chief. The Air

Pollution Control board shall keep minutes of its proceedings which shall clearly show the official actions of the Air Pollution control board and the vote of any member.

E. The air Pollution control Board shall confer with and advise the Chief on needed revisions or additions in this or any other Ordinance pertaining to air pollution or rules and regulations promulgated thereunder and on any matters concerning air pollution.

SECTION 8. That Section 2.5 of said Ordinance #3522 is hereby amended to read as follows:

Section 2.5 Air Pollution Control board: Manner of Taking Appeals.

The Air Pollution control board is hereby vested with the following jurisdiction and authority:

1. To decide appeals from any decision, ruling, regulation, determination or order made by the Chief under this Ordinance, or failure to act upon request within a reasonable period of the directive in the manner and subject to the standards hereinafter set out.

2. To pass upon application for extension of time for compliance or for exemptions or variances in the manner and subject to ARTICLE X.

3. To decide all matters referred to it or upon which it is required to pass under this Ordinance.

All hearings conducted by the Air Pollution Control Board shall be open to the public. Any person may appear and testify at a hearing, either in person or by a duly authorized representative or attorney. All testimony shall be given under oath.

The Air Pollution control board shall keep minutes of its proceedings showing the vote of each member upon

ORDINANCE NO. 3588 (continued)

each question, or if he is absent or failing to vote, indicating such fact and shall also keep records of its hearings and other official actions. Every order, requirement, decision, or determination of the Air Pollution Control Board shall be filed immediately in the office of the Department of Air Pollution Control of the City of Hammond and shall be a public record.

Members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their official duties upon approval of the Chief and a majority of the members of the Department within budget limitations.

Any person taking exception to and affected by any final decision, ruling, requirement, rule, regulation or order, or failure to act upon the request of the Chief within a reasonable period of time, may take an appeal to the Air Pollution control board as established by this section. Such appeal shall be taken within fifteen days after receiving notice of such decision, ruling, requirement, rule, regulation or order, or failure to act upon filing with the Chief a notice of appeal directed to the Air Pollution Control board, specifying the ground thereof and the relief prayed for. A fee of twenty-five (\$25.00) shall be posted by the appellant at the time of the filing of the appeal to cover the costs of the hearing and shall not be refunded. The Chief shall forthwith furnish to the Air Pollution Control Board not less than 10 days after the date of filing the appeal, shall set a date for the hearing, and shall give notice thereof by mail to the interested parties. The air Pollution control board may in its discretion grant continuances. Such an appeal shall act as a stay of the decision, ruling, requirement, rule, regulation, or order in question until the Air Pollution Control Board has taken final action on the appeal. At the hearing any party may appear in person or by agent or attorney, and present evidence, both written and oral, pertinent to the questions and issues involved,

and may examine and cross-examine witnesses. The Air Pollution Control Board, after the hearing, shall affirm, modify, or reverse the decision, ruling, requirement, rule, regulation, or order of the health Officer or the Chief, or order him to act. The decision of the Air Pollution Control Board shall be binding on the Chief, and appellant unless reversed by a court of competent jurisdiction.

The procedural provisions of the "Administrative Adjudication and Court Review Act," (Acts 1947,

ORDINANCE NO. 3588 (continued)

Chapter 365, Section 1-30, p. 1451) shall govern, and all amendments and modifications thereof, and the rules adopted pursuant thereto, shall apply and govern all proceedings for the judicial review of final administrative decisions hereunder, and the provisions of said Act, insofar as applicable, are adopted and incorporated herein by reference. Reference in said Act to the State of Indiana shall be deemed references to the City Attorney.

The Board of Health shall provide a court reporter to take the testimony and preserve a record of all proceedings of the Air Pollution control Board under this section. The notice of appeal, the notice of hearing, all other documents and pleadings, written motions filed in the proceedings, the transcript of testimony and the findings of fact and decisions shall be the record of proceedings. The Air pollution control board shall furnish a transcript of such record to any person interested as a party to such hearing upon the payment thereof of seventy-five cents per page for each carbon copy thereof. However, the charges of any part of such transcript ordered or paid for previous to the writing of the original record shall be fifty cents per page.

The Air Pollution Control Board shall not be required to certify any record or file any answer or otherwise appear in any proceeding for judicial review unless the party filing the appeal deposits the sum of seventy-five cents per page, which includes cost of certification. Failure on the part of the appellant to make such deposits

shall be grounds for dismissal of the action. Upon judicial review the air Pollution Control Board shall certify the record.

SECTION 9. That sub-section D of Section 6.11 of said Ordinance #3522 is hereby amended to read as follows:

Section 6.11 Nuisance Abatement.

D. Upon refusal or failure of any person to obey the order of abatement, proceedings may be had under the Indiana Administration Adjudication Act (Acts of the Indiana General Assembly, 1947, ch. 365), which Act, insofar as it is applicable, is made a part of this Ordinance by reference. References in said Act to the Attorney General shall be deemed to refer to the City Attorney; and to the State of Indiana, to the City of Hammond, Indiana.

ORDINANCE NO. 3588 (continued)

Provided, however, that in the City of Hammond, the Department of Air Pollution Control shall be represented by the City Attorney or a special City Attorney employed by the City and the Department.

SECTION 10. That Section 17.1 of said Ordinance #3522 is hereby amended to read as follows:

Section 17.1 Party to Claims or Actions.

All claims or actions filed by or against the Chief or the Air pollution board shall be brought in the name or filed against the City of Hammond, Indiana, a municipal corporation.

SECTION 11. This ordinance shall be in full force and effect immediately after its passage, signing by the President of the Common Council, approval by the Mayor, and publication according to law.

/s/ GEORGE W. CARLSON, President
Hammond Common Council

ATTEST:

/s/ STANLEY KULIK, City Clerk

Approved by the Mayor on the 10th day of September,
1968.

/s/ JOSEPH E. KLEN, Mayor
City of Hammond, Indiana

PASSED by the Common Council of the City of Hammond,
Indiana on the 9th day of September, 1968, presented to
the Mayor for his approval or rejection and approved by the
Mayor on the th day of _____, 1968.

/s/ STANLEY KULIK, City Clerk