

SPONSOR: ROBERT J. GOLEC

**ORDINANCE NO. 7102**

AN ORDINANCE ESTABLISHING A DEPARTMENT OF ENVIRONMENTAL MANAGEMENT WITH AN AIR POLLUTION CONTROL DIVISION AND A SOLID WASTE, WATER AND NOISE POLLUTION DIVISION IN THE CIVIL CITY OF HAMMOND, INDIANA (AS AMENDED)

**WHEREAS**, there is a need to expand the environmental efforts within the City of Hammond and to integrate those activities into one program, and

**WHEREAS**, it is desirable to establish guidelines, rules and regulations concerning solid waste and water pollution within the City of Hammond, and

**WHEREAS**, all of the environmental programs in the City of Hammond, air pollution, noise pollution, solid waste and water pollution shall be consolidated into one department to protect the health and welfare of the residents of the City.

**NOW, THEREFORE BE IT ORDAINED** by the City Council of the City of Hammond, Indiana as follows:

**ARTICLE I  
GENERAL PROVISIONS**

SECTION 1.1 Short Title.

This Ordinance shall be cited the "Environmental Management Ordinance".

SECTION 1.2 Purpose.

This Ordinance is designed to expand Hammond's environmental efforts and establish a Department of Environmental Management with a Division of Air Pollution Control and a Division of Solid Waste, Water and Noise Pollution Control, describe the duties and qualifications of a Director, empower the investigation and abatement of violations of this Ordinance, create the position of Coordinator - Division of Solid Waste, Water and Noise Pollution, provide for the establishment and enforcement of standards, rules and regulations, the authority to take samples and conduct tests, establish the right of entry, confidentiality of certain records, establish the persons liable for violations, and provide for fines for violation of the provisions of this Ordinance, and provide just and adequate means by which this ordinance may be executed.

## **ORDINANCE NO. 7102**

### **ARTICLE II**

#### **ADMINISTRATIVE ORGANIZATION**

SECTION 2.1 Administration, Organization, and Enforcement.

a. This Ordinance shall be effective territorially throughout the City of Hammond, Indiana. There is hereby created a Department of Environmental Management which shall consist of a Division of Air Pollution Control and a Division of Solid Waste, Water and Noise Pollution Control. The functions and duties of the Division of Air Pollution Control are detailed in Ordinance 3522 (as amended) which is hereby incorporated into this Ordinance by reference.

b. The Administration of this Ordinance shall be conducted by the Department of Environmental Management headed by a Director.

c. There is hereby created the position of Director, Department of Environmental Management. The Director shall be appointed by the Mayor. The Director shall also act as the Chief of the Division of Air Pollution Control (Ordinance 3522 as amended).

d. The Director shall perform such duties as may be required relative to air pollution control, noise pollution control, solid waste and water pollution. The Director 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, noise pollution, solid waste and water pollution.

e. The Director shall possess a four (4) year Bachelors Degree from an accredited college or university, and shall have at least 5 years experience in environmental control with at least three years experience in a supervisory position.

#### SECTION 2.2 Power and Duties of the Director.

a. The Director shall have the power and duties enumerated in Ordinance 3522 (as amended) Article II, Section 2.2 , as well as those powers and duties enumerated in this Ordinance.

b. Make all needful rules and regulations pertaining to the administration of the department, such rules and regulations shall be submitted to the Mayor for approval.

c. Institute complaints against all persons violating any provision of this Ordinance or any other ordinance, or any state or federal statutes, rules, or regulations, and institute necessary legal proceedings to prosecute violations of this Ordinance or any state or federal statutes, rules, or

**ORDINANCE NO. 7102**

regulations, and compel the prevention and abatement of any adverse environmental effects or nuisances arising therefrom.

d. Make inspections of any existing or newly installed, constructed, reconstructed, or altered air pollution, noise pollution, solid waste or water pollution, process equipment, or control equipment.

e. Investigate complaints of violations of this ordinance and make inspections and observations and record such investigations, complaints, inspections, and observations.

f. Approve or reject applications for air pollution permits, and administer the issuance of certificates of operation, installation permits, notices or other matters required under the provisions of Ordinance 3522 (as amended).

g. Encourage voluntary cooperation by persons or affected groups in the preservation and restoration of the purity of the environment.

h. Collect and disseminate information on environmental management.

i. Work with planning and zoning agencies for the purpose of coordinating activities under provisions of this Ordinance and foster the best possible management of environmental resources.

j. Cooperate and work with Federal, interstate, state, county, district, municipal, and other agencies concerned with the environment, with regard to environmental studies, abatement programs, public complaints, and other matters to the end that the environmental sources of Hammond shall be best conserved and improved.

k. Do any and all acts which may be necessary for the successful prosecution of the purposes of this Ordinance

and such other acts as may be specifically enumerated therein as his duties.

### SECTION 2.3 Coordinator - Qualifications and Duties.

There is hereby created the position of Coordinator - Division of Solid Waste, Water and Noise Pollution Control, Department of Environmental Management.

#### a. Qualifications

1. Education: College Degree (B.A. or B.S.) from an accredited College or University.

2. A thorough knowledge of the federal, state, and local laws, regulations and ordinances which govern solid waste, water and noise pollution.

3. A working knowledge of other federal, state, and local environmental laws.

#### **ORDINANCE NO. 7102**

#### b. Duties

1. The Coordinator serves as the Solid Waste, Water and Noise Pollution Control contact person for the City of Hammond and is responsible to the Director, Department of Environmental Management. The Coordinator monitors locations in Hammond for compliance with the standards established by this Ordinance and any other federal, state, or local laws, rules and regulations effecting solid waste, water and noise pollution. The Coordinator actively seeks to minimize any adverse environmental effects through direct involvement or referral to an appropriate agency or department. The Coordinator, or his authorized representative, shall be the enforcement officer of the solid waste, water and noise pollution standards established by this ordinance. The primary focus and duty of this individual shall be to focus on and promote remediation of existing sites located within the City of Hammond where hazardous material and waste has been disposed of in an environmental unsafe fashion.

2. Gather information and data for governmental and private sources on the locations in and adjacent to the City of Hammond where hazardous substances or wastes were stored, used, disposed, or discharged.

3. Gather information on all federal, state, and local laws, rules and regulations that affect solid waste, water and noise pollution.

4. Investigate complaints related to solid waste, water and noise pollution and provide assistance toward the resolution of such complaints.

5. Prepare technical reports on sites where solid waste pollution has or is occurring, and on sources of water and noise pollution, and seek a resolution to those problems.

6. Make recommendations to the Director, Department of Environmental Management, on the operation of the Division of Solid Waste, Water and Noise Pollution Control including any need for changes to the laws, rules, and regulations on solid waste, water and noise pollution.

7. Advise the Hammond Fire Department Hazardous Material Response Team at Hazardous material response incidents, and provide information as to substances or wastes that may pose a danger to life or property.

#### **ORDINANCE NO. 7102**

8. Shall perform related duties as required by the Director.

#### **ARTICLE III STANDARDS**

SECTION 3.1 Minimum Solid Waste and Water Pollution Standards.

The minimum rules, regulations, and standards established under this Ordinance shall, for solid waste management, be those rules, regulations and standards found in TITLE 329 Indiana Administrative Code, and for Water Pollution the rules, regulations, and standards found in TITLE 327 Indiana Administrative Code. The Indiana Solid Waste and Water Pollution rules, regulations and standards found in TITLES 327 and 329 of the Indiana Administrative Code are hereby incorporated into this Ordinance by reference as minimum standards and shall be considered an integral part of this Ordinance in the same manner and extent as if fully reproduced herein. However, the Department of Environmental Management shall not issue any National Pollutant Discharge Elimination System (N.P.D.E.S.) permits nor collect any fees related to such N.P.D.E.S. permits.

#### SECTION 3.2 Minimum Air Pollution Control Standards.

The minimum standards established under this Ordinance for air pollution control shall be those standards found in TITLE 326 Indiana Administrative Code and those standards found in Hammond Ordinance 3522 (as amended by Ordinances 3588, 3672, 3838, 4621, and 5090).

- #3588 - Established a Department of Air Pollution Control
- #3672 - Added Sulfur Oxide Limitations
- #3838 - Minimum Air Contaminant Regulation
- #4621 - Permit Fees
- #5090 - Emission Limitations on Particulate Matter and Gases from Incinerators

The Indiana Air Pollution Control Standards found in TITLE 326 of the Indiana Administrative Code are hereby incorporated into this Ordinance by reference as minimum standards along with Ordinances #3522, #3588, #3672, #3838, #4621 and #5090 as well as any subsequent amendments to these Ordinances, and shall be construed as an integral part of this Ordinance in the same manner and extent as if fully reproduced herein.

SECTION 3.3 Noise Control Standards.

The noise pollution control standard established under this Ordinance shall be those standards established by Ordinance 4083, and such standards shall be construed as an integral part of this Ordinance in the same manner and extent as if fully reproduced herein.

**ORDINANCE NO. 7102**

SECTION 3.4 Interpretation of Standards.

Where there is more than one interpretation of a standard found in this Article then the interpretation that results in the minimum value for allowable emissions or discharges shall apply.

SECTION 3.5 Inspection of Standards.

Two copies of each standard, rule or regulation referenced in this Ordinance shall be kept on file in the Office of the Director and the Office of City Clerk and shall be made available for public inspection.

**ARTICLE IV**

SECTION 4.1 Authority to Take Samples and Conduct Tests.

a. The Director is hereby authorized to take samples and conduct or cause to be conducted any test or tests of any new or existing source, equipment, operation, process or control equipment, producing, utilizing, or creating air pollution, solid waste, water or noise pollution which, in his opinion, may result in emissions or discharges in excess of the Standards prescribed in this Ordinance.

Upon notification by the Director, or his authorized representative, that samples or tests are considered necessary, a person may elect to conduct such tests or take such samples themselves. In this event, the person shall notify the Director of his decision in writing setting the



time and date of such sampling or testing. All Tests conducted shall be in a manner acceptable to the Director, and a complete detailed report of such sampling or testing shall be submitted to the Director. The Director may stipulate that a representative of his office be present during the conducting of such sampling or testing and may stipulate a reasonable time limit for the completion of such sampling, testing, report preparation and submittal.

b. Nothing in this section concerning samples taken or tests conducted by and paid for by any person or his authorized agent shall be deemed to abridge the rights of the Director, or his authorized representative, to conduct separate or additional tests or any new or existing source, equipment, process or control equipment, producing, utilizing or creating air pollution, solid waste, water or noise pollution on behalf of the City at a reasonable time and at the City's expense except as provided below.

#### SECTION 4.2 Test Facilities and Access.

It shall be the responsibility of the owner or operator of the operation tested to provide, at his expense, reasonable and necessary openings or access to the source, equipment,

#### **ORDINANCE NO. 7102**

process or control equipment, and safe and easy access thereto, to permit technically valid samples and measurements to be taken.

#### SECTION 4.3 Test Costs.

If the samples taken or tests conducted as a result of procedures outlined in Section 4.1 substantiate that a violation exists, the person or persons liable for the violation shall be responsible for paying all attendant costs for conducting said tests. If said tests do not substantiate that the violation exists, then the City shall be responsible for paying all attendant costs for conducting said tests. This latter condition shall not

obviate the owner's or operator's responsibilities set forth in Section 4.2. Provided, however, if the owner or operator elects to take his own samples or conduct his own discharge or emission tests as stipulated in Section 4.1 and Section 4.2 the persons so electing shall pay for these tests irrespective of their outcome.

## **ARTICLE V**

### **RIGHT OF ENTRY**

#### **SECTION 5.1 Right of Entry for Inspection.**

Any person who in any manner hinders, obstructs, delays, resists, prevents, or in any manner interferes or attempts to interfere with the Director, or his authorized representatives, or police officers, in the performance of any duty enjoined, or shall refuse to permit the Director or such representatives or officers to perform their duty by refusing the, or either of them, entrance at reasonable hours to any premises in which the provisions of this ordinance are being violated or are suspected of being violated, or refuse to permit the inspection or examination of such premises for the purpose of the enforcement of this Ordinance, shall be subject to the fines hereinafter provided.

## **ARTICLE VI**

### **CONFIDENTIALITY OF RECORDS**

#### **SECTION 6.1 Confidentiality.**

Any records or other information furnished to or obtained by the Director, or his authorized representative, which records or information relate to processes unique to the owner or operator or which would tend to affect adversely the competitive position of such owner or operator, shall be only for the confidential use of the Director and his representatives, unless such owner or

operator shall expressly agree to their publication or availability

**ORDINANCE NO. 7102**

to the general public. Nothing herein shall be construed to prevent the use of such records or information by any department, agency, or officer of the city in compiling or publishing analyses or summaries relating to the general condition of the environment: provided that such analyses or summaries do not provide, directly or indirectly, any information otherwise confidential under this Section.

**ARTICLE VII**

**PERSON LIABLE**

SECTION 7.1 Persons Liable.

All persons owning, operating, or in charge or control of any equipment or premises who shall cause, suffer, allow, permit, or participate in any violation of this Ordinance shall be individually and collectively liable for any penalties imposed by this Ordinance. This liability shall include any person who shall refuse to comply with or who shall assist in the violation of any of the provisions of this Ordinance.

**ARTICLE VIII**

**PENALTIES FOR VIOLATION**

SECTION 8.1 Penalties.

Any person who shall violate any of the provisions of this Ordinance shall upon conviction thereof, pay a fine of not less than Fifty Dollars (\$50.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00) for each violation. Each day in which any violation shall continue

shall be deemed a separate offense and each violation of a standard, rule or regulation established by this Ordinance shall constitute a separate offense.

## **ARTICLE IX**

### **PARTIES TO CLAIMS OR ACTIONS**

SECTION 9.1 Party to Claims or Actions. All claims or actions filed by or against the Director shall be brought in the name of or filed against the City of Hammond, Indiana a municipal corporation.

## **ARTICLE X**

### **SEVERABILITY**

SECTION 10.1 Severability.

If any clause, sentence, paragraph, or part of this Ordinance, or the application thereof to any person, firm, **ORDINANCE NO. 7102**

corporation, or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair, or invalidate the remainder of this Ordinance, but shall be confined to the part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the legislative intent of this body that this ordinance would have been adopted had such invalid provisions not be included.

## **ARTICLE XI**

This Ordinance shall be in full force and effect from and after its passage by the Common Council, signing by the President thereof, approval by the Mayor and publication according to law.

/s/ ROBERT J. GOLEC, President  
Hammond Common Council

ATTEST:

/s/ GERALD BOBOS, City Clerk

APPROVED by the Mayor on the 21st day of December,  
1988.

/s/ THOMAS M. McDERMOTT, Mayor

PASSED by the Common Council of the City of Hammond,  
Indiana, on the 19th day of December, 1988, presented to  
the Mayor for his approval or rejection and approved by the  
Mayor on the 21st day of December 1988.

/s/ GERALD BOBOS, City Clerk