

CHAPTER 33: CITY POLICIES

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ACQUISITION AND DISPOSITION OF INTERESTS IN REAL PROPERTY

§ 33.001 PURCHASE OF LAND OR STRUCTURES.

The purchase of land or structures by the city shall be according to I.C. 36-1-10.5 as it may be supplemented and/or amended from time to time.
(Prior Code, § 2-45) (Ord. 90-34, § 2(part))

§ 33.002 SALE, EXCHANGE OF PROPERTY.

The sale, exchange, transfer or lease of property by the city shall be according to the provisions of I.C. 36-1-11 as it may be supplemented and/or amended from time to time.
(Prior Code, § 2-46) (Ord. 90-34, § 2(part))

§ 33.003 LEASING AND LEASE-PURCHASING.

The leasing and/or lease-purchasing of any interest in real property shall be according to the provisions of I.C. 36-1-10 as it may be supplemented and/or amended from time to time.
(Prior Code, § 2-47) (Ord. 90-34, § 2(part))

§ 33.004 ACQUISITION BY DONATION.

The acquisition of property by donation shall be according to the provisions of I.C. 36-1-4-10 as it may be supplemented and/or amended from time to time.
(Prior Code, § 2-48) (Ord. 90-34, § 2(part))

§ 33.005 CUSTODY AND MAINTENANCE OF CITY PROPERTY.

The Board of Public Works and Safety has custody of and may maintain all real property of the city according to the provisions of I.C. 36-9-6-3 as it may be supplemented and/or amended from time to time.
(Prior Code, § 2-49) (Ord. 90-34, § 2(part))

AMBULANCE SERVICE

§ 33.020 ESTABLISHED.

There is hereby established a city ambulance service to operate within the city limits of the City of Hobart, Lake County, Indiana, beginning January 1, 1981.
(Prior Code, § 2-50) (Ord. 1528, (part))

§ 33.021 DIRECTION AND CONTROL.

The Board of Public Works and Safety of the City of Hobart shall supervise, direct and control the ambulance service and shall enter into any and all contracts necessary and incidental to the operation and maintenance of the ambulance service.

(Prior Code, § 2-51) (Ord. 1528, (part))

§ 33.022 RATES.

Patients receiving ambulance service shall be charged as set forth in the Fee Schedule of the code.

(Prior Code, § 2-52) (Ord. 1528, (part))

§ 33.023 AREA.

The Hobart ambulance service shall operate primarily within the city limits of Hobart, and shall deliver patients, whenever feasible, to the St. Mary Medical Center located at 1500 South Lake Park Avenue, Hobart, Indiana.

(Prior Code, § 2-53) (Ord. 1528, (part))

§ 33.024 EMERGENCY SERVICE ONLY.

The Hobart ambulance service shall provide patients with emergency service only and shall not be used for the transportation of non-emergency patients or deceased persons.

(Prior Code, § 2-54) (Ord. 1528, (part))

§ 33.025 COLLECTION.

All monies collected pursuant to the provisions of this subchapter shall be deposited with the city's Clerk-Treasurer and added to the General Fund.

(Prior Code, § 2-55) (Ord. 1528, (part))

ETHICS POLICY

§ 33.040 PURPOSE.

It is the policy of the City of Hobart (the "city") that, in all cases, its elected and appointed officials shall perform their duties for the benefit of the citizens of the city. They shall conduct the government of the city with loyalty, integrity and impartiality and without prejudice or favoritism and without the opportunity of personal gain to influence their decisions or actions or to interfere with serving the public interest. The purpose of this policy is to establish legal and ethical standards of conduct for all elected and appointed officials of the city and to require disclosures by all elected and appointed officials of private, financial or other interests in matters that may affect the city.

(Ord. 2003-41)

§ 33.041 APPLICATION.

(A) This policy shall apply to the following: all elected officials of the city; members of all commissions, committees and boards established by state statute or local ordinance, resolution or motion; individuals appointed by the President of the Common Council or the Common Council; and the city's Attorney (collectively "officials") and all department heads.

(B) The written acceptance of this policy shall be a condition for initial and continuing service with the city by an appointed official.
(Ord. 2003-41)

§ 33.042 NON-PARTIALITY AND NON-DISCRIMINATION.

(A) While performing official duties, no official shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which is the city policy to grant or make available to the public at large, without prior Common Council approval.

(B) No official shall discriminate against any person in violation of federal law, state law or the ordinances of the city.
(Ord. 2003-41)

§ 33.043 REPRESENTATION.

(A) No city elected official except an attorney shall represent any individual petitioner other than the city or himself or herself before the Common Council, a commission, board or committee of the city.

(B) An elected official may represent a corporation, partnership or other entity before the Common Council, or a board, commission or committee if he or she is an owner of at least 50% of that entity, or represents at least 50% of the property or business which is the subject of the petition.
(Ord. 2003-41)

§ 33.044 FINANCIAL OR PERSONAL INTEREST DISCLOSURE.

(A) No official, either on that person's behalf or on behalf of any other person, shall have any financial or personal interest in any business or transaction with the Common Council, board, commission, committee or public body of the city unless that official makes any full public disclosure of the nature and extent of such interest, and if required, disqualifies himself or herself from participating in and acting upon the resolution of the business or transaction; provided, however, at any such hearing the presiding officer of the Common Council, board, commission, committee or other public body of the city, unless otherwise prohibited by law, may direct questions to the official who has an interest in the matter to clarify the evidence upon which the public body will make its decision. In the event the conflict of interest of the individual is ethical and not a violation of state law and the Common Council, board, commission, committee or other public body requires the individual to cast a vote in order to carry out required official business of

the city, the individual shall fully disclose the matter of conflict before casting a vote.

(B) If an official has a potential conflict of interest, a written conflict of interest public disclosure form shall be filed by that person with the Clerk-Treasurer prior to the occurrence of the business or transaction and/or prior to consideration by the Common Council, a board, commission or committee of the issue. The conflict of interest public disclosure form shall then be scheduled for review at the next public meeting of the Common Council, board, commission or committee of which that individual is a member. The official making the disclosure shall swear or affirm to the written disclosures with an appropriate statement that the disclosure is a true, accurate and complete statement of his or her interests.

(C) If a potential conflict of interest that otherwise was not anticipated, involving an elected official, or a board, commission or committee member arises while a meeting is underway, that member shall declare that a conflict may or does exist and shall immediately disqualify himself or herself from participating and acting on that matter; provided, however, at any such hearing or meeting the presiding officer of the Common Council, a board, commission or committee, unless otherwise prohibited by law, may direct questions to the official who has an interest in the matter to clarify the evidence upon which the public body will make its decision.

(D) If an individual covered by this policy is unsure as to the existence or non-existence of a conflict of interest, that individual may seek an advisory opinion. Requests originating from members of the Common Council or appointed boards, commissions or committees shall be forwarded through the presiding officer of that body to the city's Attorney. Requests from the Clerk-Treasurer shall be submitted to the city's Attorney. Requests from the city's Attorney shall be submitted to the President of the Common Council. Requests for such advisory opinions shall be initiated on a timely basis. The opinions rendered shall be advisory only, and shall not serve to exempt or excuse any official from fully conforming to this policy, or applicable penal or civil statutes, ordinances and regulations. The city's Attorney shall give prompt notice of his or her receipt of any such request to the President of the Common Council.

(Ord. 2003-41)

§ 33.045 GIFTS.

(A) No official shall directly or indirectly solicit, accept or receive any gift or consideration whether in the form of money, services, loan, travel, entertainment or thing of promise which is intended to influence himself or herself to act other than impartially in the performance of his or her official duties or which is intended as a reward for any such action on his or her part.

(B) The following shall not constitute gifts or consideration for purposes of this section:

(1) A gift of nominal value, so long as such gift has not been solicited or does not present any conflict of interest in fact or appearance. For purposes of this section, **NOMINAL VALUE** shall mean having a value not exceeding \$50, from 1 person or entity in the aggregate during a 12-month calendar period. Any person covered by this policy who has been offered and is considering the acceptance of a gift having a value exceeding \$50 shall make written disclosure of the offer on a conflict of interest public disclosure form. The disclosure should be made before acceptance of the gift when possible. For elected officials, the disclosure shall be made to the Clerk-Treasurer. For persons appointed to boards, commissions or committees, the disclosure shall be made to the President of the Common Council with a copy to other Common Council members and the Clerk-Treasurer. For the city's Attorney, disclosure shall be made to the

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President of the Common Council, with a copy to other Common Council members and the Clerk-Treasurer;

(2) Trade discounts offered to all city employees rather than being limited to membership in 1 or more city departments;

(3) Trade discounts offered to the general public or to private groups such as professional, religious or service organizations that are not limited to membership in 1 or more city departments;

(4) Food consumed in public, professional or community reception;

(5) Acceptance of a professional or public award, reflecting positive performance or community service; and

(6) Campaign contributions reported in full compliance with federal, state and local statutes and ordinances as they may apply.

(C) (1) In order to avoid the appearance of a gift or a consideration which is prohibited by this policy, an official attending functions or taking trips as a representative of the city shall pay the usual and customary costs to attend the function and/or take the trip.

(2) In order to obtain reimbursement from the city, a conflict of interest public disclosure form shall be completed and filed for approval with the Clerk-Treasurer. In the event the Clerk-Treasurer denies reimbursement, the official shall pay the usual and customary costs to attend and may appeal from the denial to the Ethics Committee and request that it decide the matter.

(3) The decision of the Ethics Committee shall be final and binding on the parties.

(4) Copies of the applications for reimbursement, and the approval or denial and appeal decision shall be filed with the members of the Common Council each month.
(Ord. 2003-41)

§ 33.046 CONFIDENTIAL INFORMATION.

No person to whom this policy applies shall use or permit the use of any confidential information regarding municipal affairs to advance the financial or personal interest of the person or any other person.
(Ord. 2003-41)

§ 33.047 ELECTORAL ACTIVITIES.

All persons to whom this policy applies and who are engaged in any activities to gain public office or to assist another person or group to gain public office shall comply with any and all local, state and federal laws.
(Ord. 2003-41)

§ 33.048 NOTICE OF ALLEGED ETHICS NON-COMPLIANCE.

(A) If any person has reason to believe that there has been non-compliance with this policy, he or she shall file a written claim with the Clerk-Treasurer, and the Clerk-Treasurer shall provide a copy of the claim to the member of the Common Council and the Ethics Officer who shall refer the matter to the Ethics Committee for hearing and determination.

(B) Time shall be of the essence for the Ethics Committee to complete its hearing and make its determination on the alleged non-compliance.
(Ord. 2003-41)

§ 33.049 ETHICS COMMITTEE AND HEARING PROCEDURE.

(A) The Ethics Committee shall consist of the following 3 members:

(1) The Ethics Officer who shall be a resident of the City of Hobart appointed by majority vote of the Common Council and who shall be subject to removal by majority vote of the Common Council. The duties of the Ethics Officer may be determined by resolution of the Common Council and the Ethics Officer shall serve with or without compensation as determined by the Common Council;

(2) The Common Council President; and

(3) The Chair or President of the board, commission or committee of the alleged non-compliant person or other member of the board, commission or committee if the alleged non-compliant person is the chair or president.

(B) The Ethics Committee shall conduct the hearing using the following procedure.

(1) The Ethics Officer shall forward to the official a copy of the claim made and afford the official an opportunity to respond in writing concerning the alleged non-compliance.

(2) The claim made and the response of the official shall then be brought to the Ethics Committee for review and hearing.

(3) The Ethics Committee may make such further investigation as may be warranted under the circumstances and shall determine whether the official has violated this policy.

(4) If the Ethics Committee determines that the official has not complied with this policy, it shall consider the matter for appropriate corrective action.

(5) If the Ethics Committee determines that the official has complied with this policy, it shall report its determination to the official.

(6) The Ethics Committee shall report all final determinations to the members of the Common Council.
(Ord. 2003-41)

§ 33.050 REVIEW OF POLICY.

(A) The Common Council shall review this policy and make any recommended changes at least once every 4 years and may do so more frequently if needed.

(B) The Common Council shall make changes in this policy as it deems reasonable and necessary for the public interest.

(Ord. 2003-41)

§ 33.051 NOTIFICATION TO MEMBERS OF COMMON COUNCIL.

Except as limited by federal or state law concerning issues of confidentiality, the members of the Common Council and the Clerk-Treasurer, in due course, shall be provided copies of each conflict of interest public disclosure form, each advisory opinion concerning the existence or lack of a conflict of interest, each claim of non-compliance with this policy and each determination on a claim of non-compliance.

(Ord. 2003-41)

NEPOTISM AND CONTRACTING WITH RELATIVES OF ELECTED OFFICIALS

§ 33.052 FINDING.

The Council finds that it is necessary and desirable to adopt a policy of conduct with regard to nepotism in employment with the City and in contracting with the City in order to continue to be able to provide local government services to its residents and to comply with new laws effective July 1, 2012 known as I.C. 36-1-20.2 and 21, respectively.

(Ord. 2012-14, § 1)

§ 33.053 NEPOTISM POLICY ON EMPLOYMENT AND CONTRACTING.

On July 1, 2012, the City shall have a Nepotism Policy on Employment and Contracting that complies with the minimum requirements of I.C. 36-1-20.2 as to Nepotism in City employment, and with I.C. 36-1-21 as to Contracting with the City by a Relative. Implementation of such policies shall begin and continue thereafter.

(Ord. 2012-14, § 1)

§ 33.054 ESTABLISHMENT OF POLICY.

The City of Hobart Nepotism Policy on Employment and Contracting is hereby established and effective as of July 1, 2012 by adopting the minimum requirements provisions of I.C. 36-1-20.2 as to Nepotism in employment, and the minimum requirements provisions of I.C. 36-1-21 as to contracting with the City by a relative. Said minimum requirements shall include all future supplements and amendments to said statutes which become law from time to time, and making them a part hereof as if fully set out herein. A copy of I.C. 36-1-20.2 and 21 are attached. The City determines that both I.C. 36-1-20.2 and 21 specifically allow the City to adopt requirements

that are “more stringent or detailed” and that more details at this time are not necessary.
(Ord. 2012-14, § 1)

§ 33.055 SINGLE MEMBERS OF LEGISLATIVE AND GOVERNING BODIES.

The City finds that a single member of the legislative body of the City cannot act for the body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body and therefore without such authority by the majority, he or she will not be in the direct line of supervision. (See I.C. §§36-4-6-11 and 36-5-2-9-4). In addition, the City finds that a single member of governing bodies with authority over employees in the City cannot act for the governing body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body, when a statute provides that a majority is needed to act, and therefore, without such authority by the majority the single member will not be in the direct line of supervision.

(Ord. 2012-14, § 1)

§ 33.056 OFFICIALS AND EMPLOYEES TO COMPLY; SANCTIONS.

All elected and appointed officials and employees of the City are hereby directed to cooperate fully in the implementation of the policy created by this Ordinance and in demonstrating compliance with same. Failure to abide by or cooperate with the implementation, compliance and certifications connected with the City Policy on Nepotism in Employment and Contracting is a violation of the Policy and may result in discipline, including termination, transfer from the direct line of supervision or other curative action. An elected or appointed official of the City who fails to abide by or cooperate with the implementation, with the compliance and with mandated certifications of said Policy may be subject to action allowed by law.

(Ord. 2012-14, § 1)

§ 33.057 IMPLEMENTATION AND DISTRIBUTION OF POLICY.

The policy created by this Ordinance is directed to be implemented by any one or more than one of the following actions:

(A) posting a copy of this Ordinance in its entirety in at least one of the locations in the City also used to post employer posters or other notices to employees;

(B) providing a copy of this Ordinance to its employees and elected and appointed officials;

(C) providing or posting a notice of the adoption of this Ordinance; or

(D) any such other action or actions that would communicate the policy established by this Ordinance to its employees and elected and appointed officials.

Upon taking any of the above-described actions, the policy is deemed to have been implemented by the City. Two (2) copies of I.C. 36-1-20.2 and I.C. 36-1-21, and as

supplemented or amended, shall be maintained on file in the Office of the City Clerk-Treasurer for the purpose of public inspection as may be required by I.C. §36-1-5-4.
(Ord. 2012-14, § 1)

BUSINESS AND CONTINUITY PLAN

§ 33.065 DECLARING A DISASTER.

(A) Types of disasters:

(1) ***PARTIAL DISASTER.*** A disastrous event has occurred which rendered the computer inoperable for up to a week, but access to the office is not affected.

(2) ***COMPLETE DISASTER.*** A disastrous event has occurred which has affected the office to the extent that the office will be inaccessible for an extended period of time or the computer must be replaced.

(B) The Mayor, Clerk-Treasurer or city's Judge may declare a partial disaster or a complete disaster for the pertinent office affected.

(C) If a complete disaster is declared, a replacement computer will be placed at 1 of the following locations, including any of their satellite sites: Hobart City Hall; Hobart Police Department; Hobart Fire Department; or Hobart Park Department. Information processing would occur at the alternate location until the office affected is restored.

(D) The elected official declaring the disaster shall determine the vendor to be employed for replacement or repair of the affected computer system and may act to obtain whatever emergency funding is necessary to ensure business continuity.
(Ord. 2005-48)

§ 33.066 DISASTER RECOVERY TEAM AND CONTACT LIST.

Once a disaster has been declared by the specified elected official, the following contact must be made immediately:

(A) The vendor as determined in [§ 33.065](#);

(B) All department head(s) and staff affected directly or indirectly by the disaster as determined by the elected official;

(C) The Common Council President; and

(D) The Board of Public Works and Safety members.
(Ord. 2005-48)

§ 33.067 RECOVERY RESPONSIBILITIES.

(A) The disaster recovery team shall consist of the specified elected official and their

designated deputy clerks.

(B) The specified elected official who declared the disaster shall be responsible for the following:

(1) Contact: department heads and staff directly affected.

(2) Contact: vendor for hardware and/or software.

(3) Retrieve: latest complete backup of data.

(4) Contact: Common Council President and Board of Public Works and Safety members.

(5) Arrange: emergency funding for new computer system.

(6) Restore: work with software vendors to restore all software and backups when new computer system is installed.

(Ord. 2005-48)

§ 33.068 BACKUP PROCESSING.

(A) Each night the data is automatically backed up. Each morning, the backup is checked for completeness. If the backup was performed successfully, the Clerk or Deputy Clerk or their designee, moves the prior night's backup to the off-site location for safekeeping. The off-site location is another building under the control of the City of Hobart.

(B) Monthly, a complete system backup (data and software) is performed and is taken to the off-site location for safekeeping.

(Ord. 2005-48)

§ 33.069 OPERATION OF THE OFFICE DURING THE INTERIM PERIOD.

Accounting and financial data is the only critical application residing on the computer. There are no critical forms. Data entry of that system will be suspended until the computer is repaired or replaced. The input documents would be stored in the office during a partial disaster. In case of a complete disaster, input documents would be stored at a secure off-site location in another building under the control of the City of Hobart. No special procedures are needed to receipt money since receipts would continue to be written by hand. The other applications would be restored at the same time the accounting and financial data is restored. Data entry to the other non-critical systems would be postponed until the accounting and financial data is up-to-date.

(Ord. 2005-48)

§ 33.070 TRAINING, TESTING AND MAINTAINING THE PLAN.

(A) Members of the disaster recovery team will have a copy of this document in each of their homes. Also, a copy will be stored at each off-site location under the control of the City of Hobart. Training will consist of review of this business continuity plan followed by a meeting

discussing the plan with deputy clerks.

(B) The plan is to be tested in stages beginning in January, 2006 as follows:

(1) A restore will be done with the latest backup from the off-site location. The latest data backup will be added to the restored information;

(2) The contacts and phone numbers in the plan will be reviewed for correctness; and

(3) The specified elected officials and their designated deputy clerks, will review the procedures to continue business functions using interim procedures and temporarily maintain records on a manual basis.

(C) (1) Every 6 months, the specified elected officials and their designated deputy clerks will review the plan and again test to determine if it is up-to-date.

(2) Any additions or corrections will cause a new plan to be distributed to each member of the team.

(Ord. 2005-48)

§ 33.071 CURRENT CONTACTS, HARDWARE CONFIGURATION AND LIST OF SOFTWARE.

The specified elected official and their designated deputy clerks shall be responsible for attaching to this plan:

(A) A list of contacts and responsible parties, including phone numbers for contact information;

(B) Current hardware and operating system configuration; and

(C) Current software list with vendor name and phone number.

(Ord. 2005-48)

PERSONNEL HANDBOOK

§ 33.080 PERSONNEL HANDBOOK.

(A) There is hereby adopted and enacted a Personnel Handbook for the City of Hobart which shall govern the administration of all matters concerning employees of the City according to its terms. Said Handbook is hereby incorporated in the Municipal Code by reference in its entirety as though fully set out herein.

(B) Notwithstanding the repeal of any prior working conditions or employee rules at the time of adoption of this section, any disciplinary or other administrative proceeding commenced prior to the effective date of this Section with respect to any employee or employment of the City shall be completed under the working conditions or rules in effect prior to such date.

(Ord. 2013-44)

FAIR HOUSING

§ 33.100 STATEMENT OF POLICY.

It shall be the policy of the City of Hobart to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the United States Civil Rights Act of 1968, as amended, the United States Housing and Community Development Act of 1974, as amended, and the Indiana Fair Housing Law (I.C. §22-9.5-1-1, *et seq.*). (Ord. 2010-14, § 1)

§ 33.101 DEFINITIONS.

The definitions set forth in this Section shall apply throughout this sub-chapter:

(A) ***Dwelling*** means any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one (1) or more families. (I.C. §22-9.5-2-8).

(B) ***Family*** includes a single individual (I.C. §22-9.5-2-9), with the status of such family being further defined in subsection (H) of this Section.

(C) ***Person*** (I.C. §22-9.5-2-11) includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.

(D) ***To Rent*** (I.C. §22-9.5-2-13), includes to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.

(E) ***Discriminatory Housing Practice*** means an act that is unlawful under Sections 103,104,105, 106 or 107 of this sub-chapter or I.C. §22-9.5-5-1 *et seq.*

(F) ***Handicap*** means, with respect to a person:

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities.

(2) a record of having such an impairment, or

(3) being regarded as having such an impairment,

(4) an impairment described or defined pursuant to the United States Americans with Disabilities Act of 1990.

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- (5) Any other impairment defined under I.C. §22-9.5-2-10.

The term **handicap** shall not include current illegal use of or addictions to a controlled substance as defined in Section 802 of Title 21 of the United States Code (I.C. §22-9.5-2-10(b)); nor does the term **handicap** include an individual solely because that individual is a transvestite (I.C. §22-9.5-2-10(c)).

- (G) **Aggrieved Person** includes any person who (I.C. §22-9.5-2-2):

- (1) claims to have been injured by a discriminatory housing practice; or
- (2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

(H) **Familial Status** means one or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(I) **Commission** (I.C. §22-9.5-2-3) means the Indiana Civil Rights Commission created pursuant to I.C. §22-9-1-4, *et. seq.*

(J) **Complainant** (I.C. §22-9.5-2-4) means a person, including the Commission, who files a complaint under I.C. §22-9.5-6-1, *et seq.*
(Ord. 2010-14, § 1)

§ 33.102 UNLAWFUL PRACTICE.

Subject to the provisions of subsection (B) of this Section, Section 108 of this sub-chapter and I.C. §22-9.5-3-1, *et seq.*, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. §22-9.5-5-1 and in Section 103 of this sub-chapter shall apply to:

- (A) All dwellings except as exempted by subsection (B) and I.C. §22-9.5-3-1, *et seq.*

(B) Other than the provisions of subsection (C) of this Section, nothing in Section 103 of this sub-chapter shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of such single family house by a private individual owner not residing in the house at the time of sale or exemption shall apply only to one such sale within any twenty-four (24) month period. The private individual owner may not own any interest in, nor have owned or reserved on his behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single family house shall be excepted from application of this section only if such house is sold or rented:

(a) without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting

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dwellings, or of any employee or agent of any such broker, agent or salesman, or person and

(b) without the publication, posting or mailing, after notice of advertisement or written notice in violation of Section 4(C) of this Ordinance, but noting in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(C) For the purposes of subsection (B), a person shall be deemed to be in the business of selling or renting dwellings if:

(1) he has, within the preceding twelve (12) months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two or more transaction involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five (5) or more families.
(Ord. 2010-14, § 1)

§ 33.103 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by Section 102 of this sub-chapter and except as exempted by Section 102(B) and Section 108 of this sub-chapter, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin.

(B) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services of facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin.

(C) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination.

(D) To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(E) For profit, to induce or attempt to induct any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or

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persons of a particular race, color, religion, sex, handicap, familial status or national origin.

(F) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

- (a) that buyer or renter;
- (b) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
- (c) any person associated with that person.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:

- (a) that person; or
- (b) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
- (c) any person associated with that person.

(3) For purposes of this subsection, discrimination includes:

(a) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted;

(b) a refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(c) in connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1998, a failure to design and construct those dwellings in such a manner that;

1. the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

2. all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

3. all premises within such dwellings contain the following features of adaptive design:

- a. an accessible route into and through the dwelling;

b. light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

c. reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.

d. Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (3) (C)3.

e. Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(Ord. 2010-14, § 1)

§ 33.104 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

(A) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(B) As used in this section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

(a) for purchasing, constructing, improving, repairing, or maintaining a dwelling;

or

(b) secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(C) Nothing in this Ordinance prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

(Ord. 2010-14, § 1)

§ 33.105 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICE.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion,

sex, handicap, familial status or national origin.
(Ord. 2010-14, § 1)

§ 33.106 INTERFERENCE, COERCION, OR INTIMIDATION

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections 102, 103, 104 or 105 of this sub-chapter.
(Ord. 2010-14, § 1)

§ 33.107 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

Whoever, whether or not acting under code or law, by force or threat of force willfully injures, intimidates or interferes with, or attempt to injure, intimidate or interfere with:

(A) any person because of his race, color, religion, sex, handicap, familial status, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(B) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(1) participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (A); or

(2) affording another person or class of persons opportunity or protection so to participate; or

(C) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (A), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.
(Ord. 2010-14, § 1)

§ 33.108 EXEMPTIONS.

(A) Exemptions defined or set forth under I.C. §22-9.5-3-1, *et. seq.* shall be exempt from the provisions of this sub-chapter to include those activities or organizations set forth under subsections (B) and (C) of this Section.

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(B) Nothing in this Ordinance shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this Ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

(C) (1) Nothing in this Ordinance regarding familial status shall apply with respect to housing for older persons.

(2) As used in this Section, “housing for older persons” means housing:

(a) provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the state civil rights commission determines is specifically designed and operated to assist elderly person (as defined in the state or federal program) or;

(b) intended for, and solely occupied by, person 62 years of age or older; or

(c) intended and operated for occupancy by at least one person 55 years of age or older per unit.

(Ord. 2010-14, § 1)

§ 33.109 ADMINISTRATIVE ENFORCEMENT.

(A) The authority and responsibility for properly administering this sub-chapter and referral of complaints hereunder to the Commission as set forth in subsection (B) hereof shall be vested in the Executive of the City.

(B) Notwithstanding the provisions of I.C. §22-9.5-4-8, the City, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this sub-chapter, herein elects to refer all formal complaints of violation of the provisions of this sub-chapter by complaints to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. §22-9.5-6-1, *et seq.* and the Executive of the City shall refer all said complaints to the Commission as provided for under subsection (A) of this section for purposes of investigation, resolution and appropriate relief as provided for under I.C. §22-9.5-6-1, *et seq.*

(C) All executive departments and agencies of the City shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this sub-chapter and shall cooperate with the City executive and the Commission to further such purposes.

(D) The City Executive or the City Executive’s designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(Ord. 2010-14, § 1)

§ 33.110 SEPARABILITY OF PROVISIONS.

If any provision of this sub-chapter or the application thereof to any person or circumstances shall be determined to be invalid, the remainder of this sub-chapter and the application of its provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Ord. 2010-14, § 1)

BONDS AND INSURANCE

§ 33.120 BLANKET BOND OR CRIME INSURANCE POLICY.

The City, acting by and through the Clerk-Treasurer, is authorized to purchase, as needed, a blanket bond or crime insurance policy endorsed to include faithful performance to cover the faithful performance of all City employees, commission members and other persons acting on behalf of the City, including the City Judge and Clerk-Treasurer. The amount of the bond of the Clerk-Treasurer, and any Barrett Law fund custodian are fixed as follows:

(A) The amount must equal thirty thousand dollars (\$30,000) for each one million dollars (\$1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision (B).

(B) The amount may not be less than thirty thousand dollars (\$30,000) nor more than three hundred thousand dollars (\$300,000) unless the Common Council approves a greater amount for the officer or employee.

Notwithstanding the foregoing two sentences, the State Board of Accounts may fix the amount of an official's bond or crime policy as prescribed in I.C. §5-4-1-18 (h) (i) & (j).

(Ord. 2015-09)

RESPONSIBLE BIDDING PRACTICES AND SUBMISSION REQUIREMENTS

§ 33.200 BID SUBMISSION REQUIREMENTS.

Contractors proposing to submit bids on any City of Hobart ("City") project which are governed by City of Hobart bidding rules and policy, estimated to have a total construction cost of at least one hundred fifty thousand dollars (\$150,000.00) or more must, prior to the opening of bids, submit a statement made under penalty of perjury, on a form designated by the City and must include:

(A) A copy of a print-out of the Indiana Secretary of State's on-line records for the bidder dated within sixty (60) days of the submission of said document showing that the bidder is in existence, current with the Indiana Secretary of State's Business Entity Reports, and eligible for a

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certificate of good standing. If the bidder is an individual, sole proprietor or partnership, this subsection shall not apply;

(B) A list identifying all former business names;

(C) Any determinations by a court or governmental agency for violations of federal, state, or local laws including, but not limited to violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the Occupational Safety and Health Act (OSHA), or federal Davis-Bacon and related Acts;

(D) A statement on staffing capabilities, including labor sources;

(E) Evidence of participation in apprenticeship and training programs, applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization. The required evidence includes a copy of all applicable apprenticeship certificates or standards for these training programs;

(F) A copy of a written plan for employee drug testing that: (i) covers all employees of the bidder who will perform work on the public work project; and (ii) meets, or exceeds, the requirements set forth in I.C. §4-13-18-5 or I.C. §4-13-18-6;

(G) The name and description of the management experience of each of the bidder's project managers and superintendents that bidder intends to assign to work on the project;

(H) Proof of any professional or trade license required by law for any trade or specialty area in which bidder is seeking a contract award; and, disclosure of any suspension or revocation within the previous five years of any professional or trade license held by the company, or of any director, office or manager employed by the bidder;

(I) Evidence that the contractor is utilizing a surety company which is on the United States Department of Treasury's Listing of Approved Sureties; and

(J) A written statement of any federal, state or local tax liens or tax delinquencies owed to any federal, state or local taxing body in the last five years;

(K) A statement that individuals who will perform work on the public work project on behalf of the bidder will be properly classified as either (i) an employee or (ii) an independent contractor, under all applicable state and federal laws and local ordinances;

(L) A list of projects of similar size and scope of work that the bidder has performed in the State of Indiana within three (3) years prior to the date on which the bid is due;

(M) For the 36 month period preceding the date for submission of bids subject to this section, provide copies of any performance bonds supported by qualified sureties covering you or your work for another named insured as to which a claim or bond foreclosure was asserted, providing details of the circumstances surrounding the claim or foreclosure and the resolution of same.

(Ord. 2016-06)

The City reserves the right to require the submission of additional written supplemental

information, from the bidder, including additional verification of any of the information provided by the bidder and may also conduct random inquiries on the bidder's qualifications with the bidder's current and prior customers.
(Ord. 2015-28)

§ 33.201 POST-BID SUBMISSIONS FROM SUBCONTRACTORS.

All bidders shall provide a written list that discloses the name, address, and type of work for each first-tier subcontractor from whom the bidder has accepted a bid and/or intends to hire on any part of the public work project, including individuals performing work as independent contractors, within five (5) business days after the date the bids are due.

In addition, each such first-tier subcontractor shall be required to adhere to the requirements of [§33.200](#) of this sub-chapter as though it were bidding directly to the City, except that first-tier subcontractors shall submit the required information (including the name, address, and type of work for each of their first-tier subcontractors) to the successful bidder no later than five (5) business days after the subcontractor's first day of work on the public work project and the bidder shall then forward said information to the City. Payment shall be withheld from any first-tier subcontractor who fails to timely submit said information until such information is submitted and approved by the City.

Upon request, the City may require any second and lower-tier subcontractors to provide the required information (including name, address, type of work on the project and the name of the higher-tier subcontractor). Payments shall be withheld from any second or lower-tiered contractor who fails to timely submit this information until this information is submitted and approved by the City. Additionally, the City may require the successful bidder and relevant subcontractor to remove the second or lower-tier subcontractor from the project and replace it with a responsive and responsible subcontractor.

Failure of a subcontractor to submit the required information shall not disqualify the successful bidder from performing work on the project and shall not constitute a contractual default and/or breach by the successful bidder. However, the City may withhold all payments otherwise due for work performed by a subcontractor, until the subcontractor submits the required information and the City approves such information. The City may also require that successful bidder to remove the subcontractor from the project and replace it with a responsive and responsible subcontractor.

The disclosure of a subcontractor ("Disclosed Subcontractor") by a bidder or a subcontractor shall not create any rights in the Disclosed Subcontractor. Thus, a bidder and/or subcontractor may substitute another subcontractor ("Substitute Subcontractor") for a Disclosed Subcontractor by giving the City written notice of the name, address, and type of work of the Substitute Subcontractor. The Substitute Subcontractor is subject to all of the obligations of a subcontractor under this Ordinance.

(Ord. 2015-28)

§ 33.202 VALIDITY OF PRE-QUALIFICATION CLASSIFICATION.

Upon designation by the City that a contractor's or subcontractor's submission in anticipation of a bid is complete and timely, and upon any further consideration deemed

necessary by the City, the contractor or subcontractor may be pre-qualified for future City public works projects. A contractor's classification as "qualified" shall exempt the contractor or subcontractor from the comprehensive submission requirement contained herein for the remainder of the calendar year. Thereafter, contractors or subcontractors who are pre-qualified must submit a complete application for continuation of "pre-qualified" standing, on a form provided by the City, (also referred to as the "short form") by December 31st for the upcoming calendar year. Failure by any pre-qualified contractor or subcontractor to timely submit its complete application for continuation of "pre-qualified" standing shall result in automatic removal of the designation, effective January 1 of the upcoming year. However, the "removed" contractor or subcontractor shall still be permitted to bid on City public works projects by including the required documents with their bid.

Any material changes to the contractor's status, at any time, must be reported in writing within ten (10) days of its occurrence to the City. The pre-qualification designation is solely within the discretion of the City and the City specifically reserves the right to change or revoke the designation for a stated written reason(s).

Denial of pre-qualification shall be in writing and shall be forwarded to the contractor within seven (7) working days of such decision. Any contractor denied or losing pre-qualification status may request reconsideration of the decision by submitting such request in writing to the City within five (5) business days of receipt of notice of denial.
(Ord. 2015-28)

§ 33.203 INCOMPLETE SUBMISSIONS BY BIDDERS.

It is the sole responsibility of the potential bidder to comply with all submission requirements applicable to the bidder in [§33.200](#) above by no later than the public bid opening. Post-bid submissions must be submitted in accordance with [§33.201](#) above. Submissions deemed inadequate, incomplete, or untimely by the City may result in the automatic disqualification of the bid.
(Ord. 2015-28)

§ 33.204 RESPONSIVE AND RESPONSIBLE BIDDER DETERMINATION.

The City, after review of complete and timely submissions, shall, in its sole discretion, after taking into account all information in the submission requirements, determine whether a bidder is responsive and responsible. The City specifically reserves the right to utilize all information provided in the contractor or subcontractor's submission or any information obtained by the City through its own independent verification of the information provided by the contractor.
(Ord. 2015-28)

§ 33.205 CERTIFIED PAYROLL.

For projects in which the estimated cost is at least \$250,000 the successful bidder and all subcontractors working on a public work project shall submit a certified payroll report utilizing the federal form now known as WH-347 which must be prepared on a weekly basis and submitted to the City within ten (10) calendar days after the end of each week in which the bidder or subcontractor performed its work on the public work project. These certified payroll reports shall

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identify the job title and craft of each employee on the project, e.g. journeyman electrician or apprentice electrician. In the event any contractor or subcontractor uses independent contractors to perform work on the project, such individual must be identified on the WH-347 form with the same information as is required for employees.

The City may withhold payment due for work performed by a bidder if the bidder fails to timely submit its certified payroll reports until such time as such certified payroll reports are submitted. The City may also withhold payment due for work performed by a subcontractor if the subcontractor fails to timely submit its certified payroll reports until such time as such certified payroll reports are submitted. The City shall not withhold payment to a bidder for work performed by the bidder or for work performed by subcontractors who have submitted their certified payroll reports, because one or more other subcontractors failed to timely submit their certified payroll reports.

(Ord. 2015-28)

§ 33.206 PUBLIC RECORDS.

All information submitted by a bidder or a subcontractor pursuant to this Ordinance, including certified payrolls, are public records subject to review pursuant to the Indiana Access to Public Records Act (I.C. §5-24-3-1, *et seq.*).

(Ord. 2015-28)

§ 33.207 PENALTIES FOR FALSE, DECEPTIVE OR FRAUDULENT STATEMENTS.

Any bidder that willfully makes, or willfully causes to be made, a false, deceptive or fraudulent statement, or willfully submits false, deceptive or fraudulent information in connection with any submission made to the City shall be disqualified from bidding on all City projects for a period of three years and shall be subject to a fine in an amount not to exceed \$2,500.00 for each false, deceptive or fraudulent statement or submitted information.

(Ord. 2015-28)

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