

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

2
3 **ORDINANCE NO. 2013-08**

4
5 **An Ordinance Amending the Municipal Code of the City of Hobart**
6 **Concerning the Regulation of Dogs and Dog Owners**

7
8 WHEREAS, the Common Council (“Council”) of the City of Hobart, Indiana
9 (“City”) has taken notice of an apparent increase in the number and severity of incidents
10 of attacks by dogs of various breeds upon persons and upon other dogs in the City; and
11

12 WHEREAS, the current provisions for the regulation of dogs in the Municipal
13 Code of the City are insufficient to forestall such incidents and, in the judgment of the
14 Council, heightened measures for the promotion of humane and proper practices for the
15 care of dogs and the protection of the public are necessary and desirable; and
16

17 WHEREAS, the Council has determined that, irrespective of the breed of the dog,
18 responsible dog ownership is the best method of preventing injury to persons and other
19 dogs from dog attacks; and
20

21 WHEREAS, recognition of the legitimate rights of dog owners must be balanced
22 against the Council’s duty to provide for reasonable protection of the public from animals
23 that are vicious or unduly aggressive; and
24

25 WHEREAS, the Council also concludes that enhanced enforcement of existing
26 animal control laws is also essential to the protection of the public and desires to provide
27 for same through this ordinance.
28

29 THEREFORE, BE IT ORDAINED by the Common Council of the City of Hobart,
30 Indiana as follows:
31

32 **SECTION ONE.** The Municipal Code of the City of Hobart, Indiana
33 (“Code”), Chapter 90 entitled “*LICENSING AND REGULATION OF DOGS AND*
34 *DOMESTIC ANIMALS,*” is hereby amended by adding the following language to
35 §90.20 entitled “**DEFINITIONS**” to be inserted between the definition of
36 “**COMMERCIAL ANIMAL ESTABLISHMENT**” and “**DOMESTIC**
37 **ANIMAL:**”
38

39 **DOG.** Any animal whose taxonomic classification is *Canis*
40 *Lupus Familiaris*, irrespective of the particular breed thereof.
41

42 *SECTION TWO.* Code Chapter 90 is hereby amended by striking all of the
43 language in §90.21 entitled “**ENFORCEMENT AUTHORITY**” and inserting
44 the following new language in lieu thereof:
45

46 **§ 90.21. ENFORCEMENT AUTHORITY.**
47

48 The Mayor is empowered and authorized to administer the
49 provisions of this chapter, and to cause to be made such survey and
50 enumeration of dogs and cats in the city which he or she deems
51 necessary to ensure its enforcement. This chapter shall be enforced
52 by the officers of the City Police Department as part of their regular
53 and customary duties, by the Animal Control Authority, Code
54 Enforcement Officer or Officers and the Building Commissioner of
55 the City, all of whom are empowered to issue citations upon
56 probable cause to believe that a violation or violations of same have
57 taken place. Such officers may also issue a warning of violation in
58 writing, if, upon investigation of a complaint, they deem a citizen to
59 be in violation of the provisions of this chapter; provided that, no
60 attack of another animal or human has taken place.
61

62 *SECTION THREE.* Code Chapter 90 is hereby amended by striking all of
63 the language in §90.22 entitled “**NOTICE OF COMPLAINT**” and inserting the
64 following new language in lieu thereof:
65

66 **§ 90.22. COMPLAINTS.**
67

68 Complaints by individuals directed against any resident,
69 business or organization concerning an alleged violation of this
70 chapter occurring within the city may be directed to the Police
71 Department, Animal Control Authority or Building Commissioner.
72 The official or officer receiving the complaint shall document the
73 details thereof in writing, or in digital form, including the names and
74 addresses of the complaining and accused parties, if available, and
75 shall perform such investigation of the complaint as the official or
76 officer deems warranted in the circumstances. The investigating
77 official or officer shall prepare a report of investigation in written or
78 digital form at the conclusion thereof, and file same with the Police
79 Department which shall maintain a file, in paper or digital form, of
80 all such complaints and investigations undertaken pursuant to this

81 chapter. The investigating official shall provide written notice to the
82 person or organization against which the complaint was lodged
83 stating the substance of the complaint, the findings of the
84 investigative official, and the disposition of the complaint. The
85 Police Department, Animal Control Authority and Building
86 Commissioner shall cooperate in assisting each other in the
87 investigation and disposition of complaints. Such officials may
88 proceed to issue warnings or citations for violation of this chapter
89 when warranted by their investigative findings under the provisions
90 of §90.21 above.

91
92 *SECTION FOUR.* Code Chapter 90 is hereby amended by striking all of
93 the language in §90.23 entitled “**WARNING OF VIOLATION**” and inserting
94 the following new language in lieu thereof:

95
96 **§ 90.23. STATEMENT OF POLICY WITH RESPECT TO**
97 **ATTACKS BY DOGS UPON HUMANS OR ANIMALS;**
98 **STRICT LIABILITY.**
99

100 (A) It is the policy of the City of Hobart to enforce,
101 strictly, the provisions of this chapter in any instance of an
102 unprovoked attack by a dog within the city upon any human or
103 domestic animal. An attack for the purposes of this chapter consists
104 of the aggressive physical contact by a dog with a human or a
105 domestic animal, whether or not visible injury results. An attack is
106 deemed to be provoked by a human under this chapter when a
107 human, who is neither a law enforcement officer acting in the course
108 and scope of his duties, nor a person within the confines of his or her
109 home, or elsewhere, who is in reasonable apprehension of the
110 infliction of physical harm upon him or her by another person or
111 animal, commands, shouts at, beats, kicks or otherwise compels the
112 dog to attack. An attack is deemed to be provoked by another
113 domestic animal when such animal bites, scratches or otherwise
114 inflicts physical injury, no matter how slight, upon the dog.
115

116 (B) The owner of any dog which commits an unprovoked
117 attack upon a human or domestic animal within the meaning and
118 intent of subsection (A) of this section shall be strictly liable for
119 violation of this section and shall be subject to the penalty prescribed

120 in §90.99 of this chapter, without regard as to whether the dog which
121 committed the unprovoked attack had previously attacked or bitten
122 any human or animal.
123

124 *SECTION FIVE.* Code Chapter 90 is hereby amended by striking all of the
125 language in §90.24 entitled “**DOGS RUNNING AT LARGE; PROHIBITED**”
126 and inserting the following new language in lieu thereof:
127

128 **§ 90.24. OFFENSES CONCERNING THE OWNERSHIP AND**
129 **MANAGEMENT OF DOGS.**
130

131 In addition to the offenses prescribed in other sections of this
132 chapter which may apply, it is unlawful for any person owning,
133 possessing, keeping, harboring or having control of any dog within
134 the city:
135

136 (A) To allow the dog to run at large or to walk upon any
137 public or private property
138

139 (1) unless such property is owned or lawfully
140 possessed by such person and is equipped with fences of
141 sufficient height and strength to confine the dog and prevent
142 its exit from the confinement by jumping or collision with the
143 fence; or the dog is humanely tethered by a cable, line or
144 chain the length of which shall not allow the dog to reach any
145 public street, driveway, sidewalk or adjacent property at any
146 time; or
147

148 (2) the dog is under the control of a person of suitable
149 age and discretion at all times, on a leash, the length of which
150 does not exceed 15 feet whether coiled in a spring-loaded
151 appliance or not.
152

153 (B) To provoke an attack by a dog upon a human or a
154 domestic animal as described in §90.23.
155

156 (C) To fail to feed, provide water and care for the dog in a
157 humane manner for any period of time exceeding 48 hours;
158

159 (D) To allow the dog to become a public nuisance by
160 repeated or continuous barking, whining or howling such that the
161 noise created thereby reasonably disturbs the peace and enjoyment
162 of the inhabitants of neighboring properties;

163
164 (E) To allow the dog to molest and threaten passers-by on
165 public property or rights of way by barking, charging and other
166 aggressive behaviors;

167
168 (F) To allow the dog to chase vehicles, bicycles, joggers
169 and pedestrians on public property or rights of way;

170
171 (G) To allow the dog to deposit excrement on property
172 other than that of the owner without removing same;

173
174 (H) To allow the accumulation of feces on the property of
175 the owner or possessor of the dog such that a noisome condition
176 develops.

177
178 *SECTION SIX.* Code Chapter 90 is hereby amended by striking all of the
179 language in §90.99 entitled “PENALTY” and inserting the following new
180 language in lieu thereof:

181
182 **§ 90.99. PENALTY.**

183
184 (A) Any person, business or other organization who owns,
185 possesses, keeps, harbors or has control of any dog which is found to
186 have committed an unprovoked attack within the meaning and intent
187 of §90.23 of this chapter, shall be liable for the following penalty:

188
189 1. In cases in which the attack was made on a
190 human, the sum of \$2,500.00.

191
192 2. In cases in which the attack was made on a
193 domestic animal, a sum not less than \$500.00 nor more than
194 \$2,500.00.

195
196 (B) Any person, business or other organization that
197 violates any other provision of this chapter shall be subject to

198 penalty in the form of a fine of at least \$50.00 and not more than
199 \$2,500.00 for each violation. Each day during which a violation
200 continues may be deemed a separate and additional violation.
201

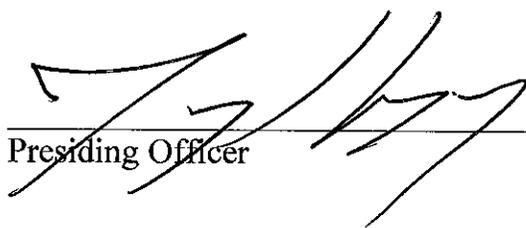
202 *SECTION SEVEN:* The sections of Chapter 90 of the Code which are not
203 amended by this ordinance are hereby affirmed and maintained in full force and
204 effect. All ordinances or portions thereof in effect prior to the effective date and in
205 conflict with the provisions of this ordinance are hereby repealed.
206

207 *SECTION EIGHT:* In the event of any impermissible conflict between the
208 provisions of this ordinance and those of I.C. §15-20-1-1, *et seq.*, the provisions
209 of said statute shall control.
210

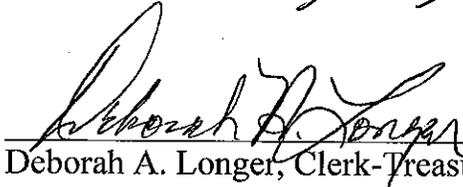
211 *SECTION NINE:* The provisions of this ordinance shall be deemed to be
212 severable such that, in the event any court determines that any provision of same is
213 unenforceable, the balance of the ordinance chapter shall be given effect to the
214 extent practicable.
215

216 *SECTION TEN:* This ordinance shall become effective upon its adoption in
217 the manner required by law, and upon publication thereof pursuant to I.C. §36- 3-
218 4-6-14(b) in two newspapers of general circulation published within the City
219 pursuant to I.C. §5-3-1-4 (a).
220

221 ALL OF WHICH is PASSED and ADOPTED by the Common Council of the
222 City of Hobart, Indiana on this 6th day of MARCH, 2013.
223

224
225
226
227 
228 _____
229 Presiding Officer

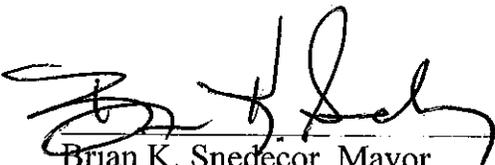
230
231 ATTEST:

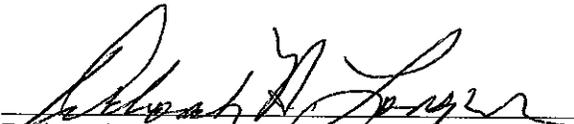
232 
233 _____
234 Deborah A. Longer, Clerk-Treasurer
235
236

237 PRESENTED by me to the Mayor of the City of Hobart on the 6th day
238 of MARCH, 2013 at the hour of 7:30 p.m.
239

240 
241 _____
242 Deborah A. Longer, Clerk-Treasurer
243

244
245 APPROVED, EXECUTED and RETURNED by me to the Common Council of
246 the City of Hobart on this 7th day of MARCH, 2013.
247

248 
249 _____
250 Brian K. Snedecor, Mayor
251

252
253 ATTEST: 
254 _____
255 Deborah A. Longer, Clerk-Treasurer
256



Smith & DeBonis, LLC
ATTORNEYS AT LAW

To Council
2/20/13

①

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Anthony DeBonis, Jr. **
Hawk P.C. Kautz**

MEMORANDUM

Terrance L. Smith, Ph.D.*†
Retired

Dennis F. Smith
(1935-1997)

* Also Licensed in Illinois
** Registered Civil Mediator

† Board Certified in
Civil Trial Advocacy

TO: Members of the City of Hobart Common Council Ordinance Committee

FROM: Anthony DeBonis Jr., City Attorney

CC: Honorable Brian K. Snedecor, Mayor
Deborah A. Longer, Clerk Treasurer
Jeffrey A. White, Chief of Police
Mike Hannigan, Building Commissioner
Members of the City of Hobart Common Ordinance Committee

DATE: July 18, 2012

RE: Draft Ordinance on Regulation of Dogs and Dog Owners

The City Council has previously made known its desire to deal with the apparently increasing number of incidents of dog attacks on humans and other animals in the City of Hobart. In preparation for today's ordinance committee meeting, I have obtained and received a large volume of written materials on the subject of legal regulation of vicious animals and their owners, sample ordinances from other jurisdictions, and scientific and other materials on the propensity for violence of dog breeds of various types.

As part of my preparation for advising you on this subject, I attended the Indiana Municipal Lawyers Association Conference in June and was present for one of the sessions which was entitled Vicious Dogs: "Reckless Owners." The session was presented by an attorney who was the chair of the American Bar Association's Standing Committee on Animal Rights and Regulation and was most informative. I have also received, as noted above, materials that discuss a number of aspects of the dog regulation issue. The most salient issue concerning which I have received communications, centers on whether or not legislation ought to be adopted which outlaws or regulates one or more particular breeds of dogs as inherently vicious or dangerous. There is also some interest in strengthening and increasing regulation of the actions of dog owners so that, in the event of a dog attack, the owner is held responsible.

I have several excellent publications in my possession which I would be glad to make available to members of the Council. One of these, a *Lawyers Guide to*



the dog which is capable of being trained and cared for in a manner that makes the dog a responsible animal citizen is directly related, as pointed out above, to the conduct of the owner. Modern legislation is directed toward altering the conduct of the owner's handling, care, housing and training of the pet. It is much more effective to craft fines and penalties against the owner which makes the owner responsible for bad dog behavior than it is to euthanize or impound the dog (unless, of course, the dog is a demonstrated menace to the community).

3. Strict and Vigorous Enforcement is Important

Too many times, citizen complaints of legitimate concerns with dogs and other animals are met with only perfunctory response by law enforcement personnel. In an age in which law enforcement is faced with a plethora of what is considered "serious crimes," law enforcement agencies often look upon complaints related to dog-related problems as unworthy of serious enforcement.

It is important that law enforcement understand, as they must because law enforcement itself are among the strongest advocates for good dog teaching, training, handling and care, that enforcement is the key to change in owner behavior and in the behavior of the animals they own. Making owners strictly liable for injury inflicted by their pets is one way to do this. But also enlarging the number of people who have enforcement responsibilities is another way of approaching the problem. Extending enforcement authority to include animal control personnel, police, but also code enforcement, and building department persons is important because all of these officials come into regular contact with domestic situations in which pets are present. They also have experience in applying and enforcing codes and in writing citations and gathering evidence. This is the cornerstone of improved enforcement.

The Draft Ordinance

In an effort to assist the Council and to organize its discussion, I have taken the liberty of preparing an ordinance which makes amendments to Chapter 90 of the Municipal Code of the City of Hobart on Animal Control. This ordinance is attached and contains a number of features already discussed above. First, it specifies that enforcement responsibility lies not only with the Police Department and Animal Control Authority, but also with Code Enforcement Personnel and the Building Commissioner. It provides a formalized process for investigation and tracking complaints and allows any of these officials to issue citations for violations.

Secondly, the ordinance makes it a strict liability offense by the owner when his dog commits an unprovoked attack upon a human or another domestic animal. Liability is strict because it matters not whether the animal had previously attacked a person or another animal or whether the owner reasonably believed or not that the