

To Council

COMMON COUNCIL OF THE CITY OF HOBART, INDIANA

ORDINANCE NO. 2013- 05

An Ordinance to Provide for Authorized Staff Levels by Rank in the Hobart Fire Department

WHEREAS, the Common Council (“Council”) of the City of Hobart, Indiana (“City”) is empowered to determine and authorize the number and compensation of the members of the City Fire and Police Departments pursuant to I.C. §36-8-3-3 (d) and (e) which provides as follows:

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body not later than September 30 of each year for the ensuing budget year. The ordinance may grade the members of the departments and regulate their pay by rank as well as by length of service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to change by ordinance.

(e) The safety board, subject to ordinance, may also fix the number of members of the police and fire departments and the number of appointees for other purposes and may, subject to law, adopt rules for the appointment of members of the departments and for their government.

I.C. §36-8-3-3 (d) and (e); and

WHEREAS, by prior City Ordinance, the Council adopted and made effective in the City the provisions of Acts 1972, Public Law 4 (which added I.C. §19-1-37.5-1, et seq.) (hereinafter “Civil Service Act”) establishing a Civil Service system to govern the City Fire Department, including appointments, promotions and disciplinary matters among its members. Although I.C. 19-1-37.5 was repealed in 1983, the Act of repeal (I.C. §36-8-3.5-1(b)) authorized Cities to retain the application of the Civil Service Act by ordinance which was duly enacted by the Council in the manner required by law; and

WHEREAS, I.C. §36-8-3-5 provides that: “Except as provided in section 4.3 of this chapter, sections 3, 4, and 4.1 of this chapter do not apply to a police or fire department having a board or commission established by statute or ordinance to establish or administer policies based on merit for the appointment, promotion, demotion, and dismissal of members of the department, unless the establishing law specifically incorporates one (1) or more of those sections;” and

WHEREAS, the forgoing Code section does not make the above-quoted provisions of I.C. §36-8-3-3 (d) and (e) ineffective in Hobart since the law which established the Civil Service System specifically provides that:

All officers, places, positions and employments coming within the purview of this chapter, shall be created by the person or group of persons who, acting singly, or

46 in conjunction, as a mayor, chief, common council, commission or otherwise, is
47 or are vested by law at and prior to the taking effect of this law, with power and
48 authority to select, appoint or employ any person coming within the purview of
49 this chapter, and nothing herein contained shall infringe upon the power and
50 authority of any such person or group of persons, or appointing power, to fix the
51 salaries and compensation of all employees employed hereunder;(former I.C. §19-
52 1-37.5-11(Acts 1972, P.L. 4, SEC.1)):

53 and

54 WHEREAS, the combined effect of the foregoing statutory provisions vests the authority
55 to prescribe the compensation of members of the City Fire Department among the various ranks,
56 and the authorized number of firefighters in each classification of service and in each rank within
57 such classifications in the Common Council exercising its legislative power; and

58 WHEREAS, the imposition of property tax levy limits upon the City, and other factors
59 have placed significant pressure on the budgetary resources of the City available to operate the
60 Fire Department while assuring an acceptable level of public safety; and

61 WHEREAS, the Department, as currently configured, has an excess number of senior
62 officers and a shortage of junior level firefighters which has resulted in high costs to the
63 taxpayers for the maintenance of the fire service; and

64 WHEREAS, the Council desires, through the provisions of this ordinance, to prescribe
65 the number of fire fighters which are authorized in certain upper ranks in the fire suppression
66 classification of service, to provide that such authorized numbers be attained through the natural
67 effect of retirements, resignations, deaths and other causes of separation from service; and

68 WHEREAS, the Council also desires to preserve the rights of fire fighters as established
69 by and specified in the Civil Service Act, and to likewise preserve the powers of the City Board
70 of Public Works and Safety as their appointing authority.

71 THEREFORE, BE IT ORDAINED by the COMMON COUNCIL of the CITY OF
72 HOBART as follows:

73 *SECTION ONE. Authorized Staffing Levels—Fire Suppression Service.*

74 The Council hereby reaffirms and restates that the Hobart Fire Department, Fire
75 Suppression Service, consists of the following ranks in descending order below
76 the position of Assistant Fire Chief, and above the base rank of Private Firefighter
77 and specifies the authorized maximum number of places or positions within each
78 such rank:

79	<i>Rank</i>	<i>Number</i>
80	1. Battalion Chief	3
81	2. Captain	3
82	3. Lieutenant	3.

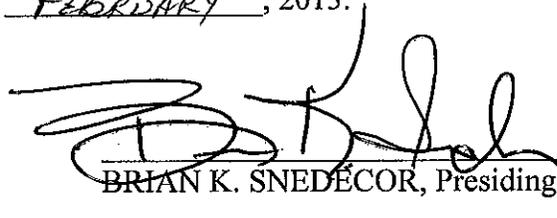
83 *SECTION TWO: Attainment of Authorized Staffing Levels.* Subject to
84 the provisions of Section Three hereunder, from and after the taking effect of this
85 Ordinance, a firefighter in the Fire Department Fire Suppression Service who, at
86 time of permanent separation from the Fire Department, holds a civil service rank
87 in which the total number of occupants of that rank are in excess of the authorized
88 number of positions for that rank as specified in Section One, shall not be
89 replaced by the Board of Public Works and Safety. Promotions of firefighters to a
90 higher rank shall be made by the appointing power only if there are sufficient
91 places available under such authorized number for that rank.

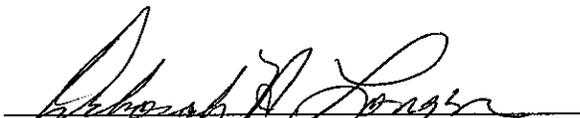
92 *SECTION THREE: Assignments to Administrative Positions.* The Fire
93 Chief shall make all assignments of Fire Suppression Service personnel, and may
94 assign Fire Suppression Service officers to administrative duties. Nothing in this
95 Ordinance shall be interpreted as altering the method of selection and
96 appointment of Assistant Chief, Fire Prevention Director and Emergency Medical
97 Service Director which is in effect as of the adoption of this Ordinance.

98 *SECTION FOUR:* This Ordinance shall take effect upon its adoption in
99 the manner required by law.

100 *SECTION FIVE:* All ordinances or portions thereof in effect prior to the
101 effective date and in conflict with the provisions of this ordinance are hereby
102 repealed.
103

104 ALL OF WHICH is PASSED and ADOPTED by the Common Council of the City of
105 Hobart, Indiana on this 6th day of FEBRUARY, 2013.

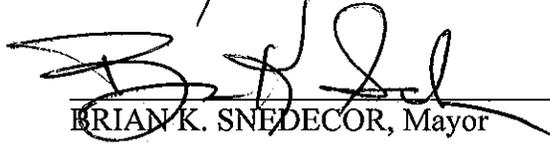
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111 _____
112 BRIAN K. SNEDECOR, Presiding Officer

113 ATTEST: 
114 _____
115 DEBORAH A. LONGER, Clerk-Treasurer
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117
118 PRESENTED by me to the Mayor of the City of Hobart on the 6th day of
119 February, 2013 at the hour of 6:45pm
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121 
122 _____
123 DEBORAH A. LONGER, Clerk, Treasurer
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126 APPROVED, EXECUTED and RETURNED by me to the Common Council of
127 the City of Hobart on this 16th day of FEBRUARY, 2013.

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BRIAN K. SNEDECOR, Mayor

ATTEST: 
DEBORAH A. LONGER, Clerk-Treasurer