

## CHAPTER 93: FIRE PROTECTION

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**GENERAL PROVISIONS**

**§ 93.001 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**APPROVED.** When applied to materials, type of construction and appliances, refers to approval by the Director of the Bureau of Fire Prevention as a result of investigations and tests conducted by him or her or by reason of accepted principles or tests by the National Board of Fire Underwriters of the Underwriters' Laboratories, Inc., or the National Bureau of Standards.

**BUILDING.** Its customary and ordinary meaning; but, where a shed or attachment has been built onto an original structure, or where 2 or more buildings have been joined together, or where a second building has been built adjacent to the first and utilized a wall of the first building as a party wall, all parts shall be considered 1 building, or any edifice or structure for human habitation whether located on or affixed to land.

**LODGING HOUSE.** Its ordinary and customary meaning; and shall also mean and include hotels, boarding houses, rooming houses, tenement houses or any other houses, by whatsoever name known, used and occupied or designed and constructed so that the same may be used and occupied for the permanent or temporary occupancy for 3 or more living quarters.  
(Prior Code, § 6-1) (Ord. 604, § 3)

**§ 93.002 FIRE EXITS.**

(A) No person shall, at any time, place an encumbrance of any kind whatsoever before or upon any fire escape, balcony or ladder intended as a means of escape from fire. It shall be the duty of every member of the Police or Fire Department who shall discover any fire escape encumbered in any manner to forthwith report the same to the Bureau of Fire Prevention, and the

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Bureau shall immediately notify the occupant to remove the encumbrance.

(B) It is unlawful for any person to place, store or keep or permit to be placed, stored or kept under or at the bottom of any stairway, inside or outside, elevator or other shaft in any building, any combustible or flammable materials, fluids or compounds, nor shall any such combustible or flammable materials be placed or stored or kept in any place where ignition or burning would obstruct or render hazardous, egress from a building.

(C) No obstruction shall be permitted in hallways of lodging houses, tenement houses or apartments.

(D) All doors, aisles and passageways within and leading into or out of places of assembly shall be kept free from easels, signs, standards, campstools, chairs, sofas, benches and any other articles that might obstruct or delay the exit of the audience, congregation or assemblage during the entire time which any show, performance, service, exhibit, lecture, concert, ball or other assemblage may be held. Rear passage from all exits and on sidewalks shall, at all times, be maintained outside of all places of assembly.

(E) (1) No aisle, passageway or stairway in any store shall be obstructed with tables, showcases or other obstructions during the hours the store is open to the public.

(2) It shall be the duty of the Police Department to render assistance to the Bureau of Fire Prevention in the enforcement of these provisions.

(F) All required exit doorways, other than those normally used for entrance shall be plainly marked by approved exit signs sufficiently illuminated when the floor area is occupied, to be readily distinguished.

(G) Directional signs shall be placed on walls, or otherwise displayed in conspicuous locations to direct occupants to exits.

(H) Required exits shall be kept adequately lighted at all times that the building thereby served is occupied.

(I) No doors designated by the Director of the Bureau of Fire Prevention as emergency exits shall be barred or locked.

(J) Where the number of persons exceed 75 in any room, the artificial lighting of the room and of exitways therefrom shall be by electricity so arranged and supplied that interruption of supply to any 1 lighting branch circuit will not result in extinguishment of all the lights in the room or all the lights along any exitway.

(Prior Code, § 6-17) (Ord. 604, § 7) Penalty, see § 10.99

### **§ 93.003 OPENING FIRE HYDRANTS, STOPCOCKS; PERMISSION REQUIRED.**

It is unlawful for any person, other than a duly authorized agent of a waterworks company or a member of the Fire Department, while engaged in the performance of his or her regular duties and for the uses and purposes of the Department, to open or attempt to open any of the fire hydrants, public stopcocks or valves connected with any such waterworks system of the city without the person first obtaining written permission so to do from the company.

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(Prior Code, § 6-18) (Ord. 604, § 7) Penalty, see § 10.99

**§ 93.004 PERMITTED AND PROHIBITED FIRES.**

(A) No person shall kindle or maintain any fire or authorize any such fire to be kindled or maintained on or in any street, alley or road unless written permission to do so shall first have been secured from the Office of the Fire Chief and the Street Department.

(B) No person shall kindle or maintain any fire or bonfire on public ground unless written permission to do so shall first have been secured from the Office of the Fire Chief and the Park Department.

(C) It shall be unlawful for any person to kindle or maintain any fire or authorize any fire to be kindled or maintained on private property within the corporate limits of the City of Hobart for the purpose of disposing of compostable materials, garbage, refuse, rubbish, waste, debris and recyclables. Recreational campfires or bonfires are allowed on private property but they must only burn wood or artificial wood products designed to be burned in campfires. They must be kindled and maintained in a wire, metal, concrete or similar non-flammable container enclosure and must be kept under the direct and constant supervision of a competent person. Campfires, barbecue grills, lamps and heaters that burn charcoal, oil, natural gas or propane or other artificial fuel are permitted on private property as long as they are used according to the manufacturer's instructions.

(D) Unless allowed by this sub-section, it shall be unlawful for any person to kindle or maintain any fire or authorize any fire to be kindled or maintained on public or private property within the corporate limits of the City of Hobart for land or forest management purposes.

(1) Fires may be allowed for land and forest management purposes in areas that are zoned agricultural or operated as a farm, the boundaries of which are at least 300 feet from the boundaries of the nearest improved residential zoning district (R1, R2, or R3) if:

- (a) Such fires are conducted by the property owner; and
- (b) They are kept under the property owner's direct and constant supervision.

(2) Fires shall be allowed for land and forest management purposes in areas that are zoned agricultural or operated as a farm, the boundaries of which are less than 300 feet away from the boundaries of the nearest improved residential zoning district (R1, R2, or R3), or in areas that are not zoned agricultural if:

- (a) the fire is conducted by the property owner; and
- (b) the fire is kept under the property owner's direct and constant supervision; and
- (c) the property owner or his or her representative has obtained a fire permit from the Indiana Department of Environmental Management (IDEM); and
- (d) the property owner has submitted to the Hobart Fire Department the IDEM permit and the related Burn Plan within seven (7) days of its receipt; and
- (e) at least 48 hours before the proposed time of commencement of the burn, the

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property owner must submit the following in writing to the Hobart Fire Department:

- and
1. the street address and legal description of the property that will be burned;
  2. the date and time of the commencement of the proposed burn and its expected duration; and
  3. the written consent of the property owner contained in an instrument bearing his or her signature, approving the burn and indicating their agreement to accept liability for any costs or liability incurred by the Hobart Fire Department due to the proposed burn; and
  4. a certificate of insurance showing that the property owner is covered by a policy of general liability insurance with an aggregate limit of not less than \$1 million covering any damage caused by the proposed fire; and
  5. a list, in writing, of the names and qualifications of the individuals who will be managing the fire and a list of the safety and fire suppression equipment that will be on site during the fire; and
  6. the anticipated weather on the date of the fire and a description of the weather under which the fire should be allowed; and
  7. in the event a proposed burn is canceled and the property owner reapplies for a new burn date(s) the same materials may be resubmitted in support of the new date where applicable; and
  8. a fifty (50) dollar fee to the Hobart Fire Department to defray the Fire Department's administrative costs.

(f) At least 48 hours before the proposed time of the commencement of the burn, actual burning, the property owner must provide written notice to every resident located within 300 feet of the boundaries of the parcel of property to be burned. The written notice shall include:

1. the location of the proposed burn; and
2. the proposed date and time of commencement of the burn, the burn and its expected duration (the notice may indicate that the proposed burn will be conducted on a single date or on one of two consecutive dates); and
3. contact information for the property owner in charge of the fire; and
4. information on whom to contact with questions at the Hobart Fire Department; and
5. in the event a proposed burn is canceled, and the owner or owners reapply for new burn date(s), the neighboring residents shall be notified of the new date(s) in the same manner as in the initial notice; and
6. the Fire Chief shall determine what constitutes adequate written notice and

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may substitute alternative messaging methods or techniques as he deems appropriate.

(g) The Hobart Fire Department may approve or deny a burn plan upon any reasonable ground.

(3) The Hobart Fire Department may inspect the site of the proposed fire for land or forest management purposes before, during or after the burn.

(4) The Hobart Fire Department may extinguish or order the extinguishment of any fire for land or forest management purposes upon its sole determination that a dangerous condition exists or is likely to be created if the fire continues, or if it determines in its sole judgment that the burn plan governing the fire is not being followed or implemented.

(E) As used in this section, “property owner” means at least one person who has an ownership interest in the property to be burned or at least one officer of a corporation that has title to the property and is authorized to act for the corporation, or a general partner or managing member of a partnership or limited liability company, respectively, holding title to the property.

(F) Fires shall be allowed for land or forest management purposes if conducted by or on land owned by governmental entities such as the Indiana Department of Natural Resources, U.S. Forest Service or National Park Service without restriction.

(Prior Code, § 6-19) (Ord. 604, § 8; Ord. 93-45, (part); Ord. 2016-03; Ord. 2017-01)  
Penalty, see § 10.99

### § 93.005 COMBUSTIBLE MATERIALS.

(A) *Disposal.* No person shall deposit smoldering coals or embers, greasy or oily substances or other matter liable to create spontaneous ignition within 10 feet of any wooden or plastered wall, partition, fence, floor, sidewalk, lumber, hay, shavings, rubbish or other combustible materials, except in metallic or other non-combustible receptacles. The receptacles, unless resting on a non-combustible floor or on the ground outside the building, shall be placed on non-combustible stands, and in every case shall be kept at least 2 feet away from any combustible wall or partition.

(Prior Code, § 6-20)

(B) *Disposal.* No person shall permit to remain upon any roof or in any court, yard, vacant lot or open space, any accumulation of wastepaper, hay, grass, straw, weeds, litter or combustible or flammable waste or rubbish of any kind. All weeds, grass, vines or other growth, when same endangers property or is liable to be fired, shall be cut down and removed by the owner or occupant of the property it is on.

(Prior Code, § 6-21)

(C) *Storage requirements.*

(1) No person making, using, storing or having charge or control of any shavings, excelsior, rubbish, sacks, bags, litter, hay, straw or combustible trash, waste or fragments shall fail, neglect or refuse, at the close of each day, to cause all such matter which is not compactly baled or stacked in an orderly manner to be removed from the building or stored in suitable vaults or in metal-lined covered receptacles or bins.

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(2) The Director of the Bureau of Fire Prevention shall require suitable baling presses to be installed in stores, apartment buildings, factories and similar places where accumulation of paper and waste materials are not removed at least every second day.

(Prior Code, § 6-22)

(Ord. 604, § 8) Penalty, see § 10.99

### § 93.006 FLAMEPROOFING.

(A) *Electric bulb decorations.* Electric light bulbs in stores or public halls shall not be decorated with paper or other combustible materials unless the materials shall first have been rendered flameproof.

(Prior Code, § 6-23)

(B) *Decorations in places of assembly.* In places of assembly, all combustible decorative materials, including curtains, acoustical materials, streamers, cloth, cotton batting, straw, vines, leaves and moss, but not including floor coverings, shall be of materials not exceeding 1/16-inch in thickness, applied directly to and adhering to a non-combustible base. The flameproofing, unless certified by Underwriters' Laboratories, Inc., or other laboratories of recognized standing as being of a permanent nature, shall be renewed each 6 months if necessary.

(Prior Code, § 6-24)

(Ord. 604, § 8) Penalty, see § 10.99

### § 93.007 FIRE EXTINGUISHERS; REQUIRED IN CERTAIN PUBLIC BUILDINGS.

The Director of the Bureau of Fire Prevention shall require the installation of portable fire extinguishers or other fire extinguishing appliances as may be deemed necessary in schools, hotels, lodging houses, hospitals, churches, halls, theaters and all other places in which numbers of persons meet, work, live or congregate from time to time.

(Prior Code, § 6-25) (Ord. 604, § 8)

### § 93.008 ADEQUATE LIGHTING REQUIRED.

All apartment buildings, lodging houses, factories, hotels and hospitals shall maintain adequate lighting in all hallways and stairways from dusk to dawn.

(Prior Code, § 6-26) (Ord. 604, § 8)

### § 93.009 SMOKING RESTRICTIONS.

(A) The Chief of the Fire Department or the Director of the Bureau of Fire Prevention is empowered and authorized to inspect all warehouses, stores, industrial establishments and any building, structure or open space in which combustible materials are handled, stored, manufactured or sold, and where conditions are found to justify the prohibition of smoking, he or she shall order the owner or occupant, in writing, to post suitable signs or placards in each room, building, structure, elevator or place in which the prohibition of smoking shall be enforced.

(B) All such signs or installations shall read:

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**BY ORDER OF  
THE FIRE DEPARTMENT  
MUNICIPAL CODE CHAPTER 93**

(C) The Chief of the Fire Department or the Director of the Bureau of Fire Prevention may designate special rooms or portions of structures in which smoking, under such restrictions as he or she may designate, may be permitted.

(D) It is unlawful for any unauthorized person to remove any placard posted pursuant to this chapter. It is unlawful for any person to smoke in any properly placarded place.

(E) The term **SMOKING** shall include the carrying of a lighted pipe, cigar, cigarette or tobacco in any form.  
(Prior Code, § 6-27) (Ord. 604, § 9) Penalty, see § 10.99

**§ 93.010 CONFLICTING STATUTES.**

This chapter shall be effective except where it conflicts with the rules and regulations of the state's Fire Marshal, the rules and regulations of the state's Administrative Building Council and the laws of the state.  
(Prior Code, § 6-29) (Ord. 604, § 12)

**§ 93.011 TRAINING AND ASSIGNMENT OF FIRE DEPARTMENT PERSONNEL.**

(A) No person employed by the City of Hobart shall be assigned to or shall engage in the functions of fire suppression and fire protection within the Fire and Ambulance Department of the city without first having:

(1) Properly taken and passed an entrance examination administered by the City of Hobart Civil Service Fire Commission in accordance with the provisions hereof subsequent and amendatory thereto or otherwise achieved coverage by Fire Civil Service in the City of Hobart through any other means authorized by law; and

(2) Received the customary and usual training in fire suppression and protection provided to entry level firefighters by the Hobart Fire and Ambulance Department.

(B) Nothing in this section shall prevent an employee of the City of Hobart Fire and Ambulance Department who is not qualified to perform fire suppression and protection activities under division (A) above from performing any other activities or duties of employment for which he or she may be qualified including, but without limitation, the provision of emergency medical services, fire inspection and investigation, clerical and maintenance duties.  
(Ord. 97-14, § 1)

**§ 93.012 CIVIL SERVICE SYSTEM FOR FIRE DEPARTMENT.**

(A) *Application of section.* The provisions of this section shall apply to all cities having regularly organized paid Fire Departments and a population of less than 90,000 or more than 125,000 according to the last preceding United States decennial census in counties having 3 or

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more second class cities, provided, however, that the provisions may be applied to other cities in the counties pursuant to division (T) of this section.

(I.C. 19-1-37.5-1)

(B) *Civil Service Commission - members - selection - qualifications - vacancies - removal - quorum.* The Civil Service Commission shall be composed of 3 persons to be appointed as follows.

(1) One to be appointed by the Mayor with the approval of the Common Council for the term of 1 year.

(2) One to be elected by the active members of the Fire Department for the term of 2 years in the following manner:

(a) An election to be made by the active members of the Department shall be made at a meeting called specifically for that purpose by the Board of Public Works and Safety. The Board shall give at least 3 weeks notice of the meeting to all active members of the Department by posting the notice in prominent locations in stations of the Department. The notice shall also be read during shift roll calls. The notice must designate the time, place, and purpose of the meeting.

(b) Only active members of the Department may attend the meeting, and at the meeting 1 of them shall be selected as Chairperson. All voting must be by secret written ballot. The other procedures for holding the meeting may be determined by the Board of Public Works and Safety and shall be posted in accordance with the preceding division.

(3) The third member shall be chosen by the above 2 members for a term of 3 years. In the event that the above 2 members fail to agree within 30 days of their appointment, then, upon the petition of any interested person showing the facts, the judge of the circuit court shall appoint a third member.

(4) Should the Mayor fail to appoint or the Council fail to approve a member as provided in division (B)(1) within 45 days after the effective date (January 21, 1972) of this section or the expiration date of any such members' term as provided hereafter, the Clerk-Treasurer shall make the appointment and members shall be qualified as if appointed by the Mayor and approved by the Council.

(5) The first such election provided for in division (B)(2) shall be conducted within 45 days after the effective date (January 21, 1972) of this law.

(6) Upon the expiration of each of the terms their successor shall be appointed in a like manner to serve for a term of 3 years. The Commissioners shall be of good moral character, a citizen of the United States, an elector of the county in which he or she resides, and not more than 2 of whom shall be of the same political party. Any member of such Commission may be removed from office for incompetency, dereliction of duty, malfeasance in office, or other good cause by the Mayor with the consent of the Common Council. Provided, however, that no member of the Commission shall be removed until the charges with due notice, have been preferred in writing, and a full hearing had before the Mayor of the city. Provided, further, that the member of the Commission so removed shall have the right of appeal to the circuit court of the county in which that city is located, which court shall thereupon proceed to hear and determine such appeal in a summary manner. The hearing shall be confined to the determination of whether the judgment or the order of removal was or was not made in good faith or cause, and

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no appeal to such court shall be taken except upon such ground or grounds. Two members of such commission shall constitute a quorum and the votes of any 2 members of such Commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission. No person shall be appointed to serve on the Commission who has held any political elective office in the 3 years immediately preceding his or her appointment.

(Ord. 97-13, § 3)

(C) *Employees of Department included; appointments and promotions, and the like; examinations; investigations; chief.* The classified Civil Service and provisions of this section shall include all full paid employees of the Fire Department of the City, who are members of the Firemen's Pension Fund. All appointments to and promotions in the Department shall be made solely on merit, efficiency, and fitness, which shall be ascertained by open competitive examination and impartial investigations, providing that such investigation shall apply to applicants for entrance only there shall be no weight given to an oral interview in competitive examinations for appointment, provided, however, that the Chief of the fire force shall be appointed by the appointing power or the Board of Public Works and Safety in the manner specified in subsection (1) of this section. In the event that the chief is appointed from the ranks of the officers of the fire force, in the event of removal or demotion of the chief, he or she shall not be demoted to a rank lower than that which he or she had achieved through civil service examination. No person shall be reinstated in, or transferred, suspended, or discharged from any such place, position, or employment contrary to the provisions this section.

(1) A person appointed fire chief must have had at least five (5) years of continuous service with the department immediately before his or her appointment. However, this requirement may be waived by a majority vote of the Common Council upon request of the City Executive, although the person must still have at least five (5) years service with a full-time, paid fire department or agency.

(I.C. 19-1-37.5-3) (Ord. 2013-38)

(D) *Commission; officers; powers and duties; rules and regulations.*

(1) Immediately after appointment, the Commission shall organize by electing 1 of its members Chairperson and hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of their duties.

(2) They shall appoint a secretary and chief examiner, who shall keep the records of the Commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform, such other duties as the commission may prescribe.

(3) The secretary and chief examiner shall be appointed as a result of competitive examination, which examination may be either original and open to all properly qualified citizens of the state, or promotional and limited to persons already in the service of the Fire Department, as the Commission may decide. The secretary and chief examiner may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the Fire Department. It shall be the duty of the Civil Service Commission:

(a) To make suitable rules and regulations not inconsistent with the provisions of this section. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions,

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and discharges shall be made; and may, also, provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this section, or which may be found to be in the interest of good personnel administration. The rules and regulations and any amendments thereof shall be printed, mimeographed, or multigraphed for free public distribution. Such rules and regulations may be changed from time to time;

(b) All tests shall be practical, and shall consist only of subjects which will fairly determine the capacity of the person examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill;

(c) The rules and regulations adopted by the Commission shall provide for a credit of 10% in favor of all applicants for appointment under civil service, who, in time of war, or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States. These credits apply to entrance examinations only;

(d) The Commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions, and employments affected by this chapter; and ascertain whether this chapter and all such rules and regulations are being obeyed. Such investigations may be made by the Commission or by any Commissioner designated by the Commission for that purpose. Not only may these investigations be made by the commission as aforesaid, but the Commission shall make like investigation on petition of a citizen duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the Commission or designated commissioner, or chief examiner shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents, and accounts appertaining to the investigation, and also to cause the deposition of witnesses residing within the state to be taken, in the manner prescribed by, law for like depositions, in civil actions. The oaths administered and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a circuit judge in his or her judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this section, and punishable as such;

(e) All hearings and investigations before the Commission or chief examiner shall be governed by the rules of civil procedure and any fireman charged with violation upon his or her request, be given a public hearing. He or she shall have the right to call witnesses and question his or her accuser under oath and employ counsel. In all hearings wherein the fireman may be discharged, demoted, or suspended for a period in excess of 15 calendar days, the Commission shall cause the evidence to be taken by a court reporter whose transcript shall form a permanent part of the records of the proceedings. A copy of the transcript shall be furnished to the fireman, free of charge, for use on appeal at the request of the fireman;

(f) To hear and determine appeals or complaints respecting the administrative work of the Personnel Department; appeals upon the allocation of position; the rejection of an examination, and such other matters as may be referred to the Commission;

(g) Establish and maintain in card or other suitable form a roster of officers and employees;

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(h) Provide for, formulate, and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position, and, as a result thereof, establish eligible lists for the various classes of position, and to provide that members laid off because of curtailment of expenditures, reduction in force, and for like causes, shall be the last members, including probationers, that have been appointed to the Fire Department. Such removal shall be accomplished by suspending in numerical order, commencing with the last members appointed to the Fire Department, all recent appointees to the Fire Department, until such reductions necessary shall have been accomplished. Provided, further, that in the event the Fire Department shall again be increased in numbers, the firemen suspended under the terms of this chapter, shall be reinstated before any new appointments to the Fire Department shall be made; and

(i) When a vacant position is to be filled, to certify to the appointing authority, on written request, the name of the person highest on the eligible list for the class. If there are no such lists, to authorize provisional or temporary appointment list of such class. Any such temporary appointment shall be terminated whenever the first person becomes available for appointment from the regular list.

(I.C. 19-1-37.5-4)

(E) *Firemen and officers to continue to hold, positions; examinations; promotions.* Any fulltime fireman except those on probation who is serving upon the Fire Department upon the adoption of the civil service system in any municipality shall be deemed to be a permanent member of the civil service system without examination or other acts on their part as if such person had been permanently appointed thereto under civil service after examination and investigation. The officers of such Fire Department shall continue to hold the positions that they held at the time of the adoption of the civil system; until examinations are held. Examinations shall be held within 2 years of adoption of civil service system. Provided, however, that to be eligible for promotion beyond such rank they shall be required to take the civil service examinations for promotion.

(I.C. 19-1-37.5-5)

(F) *Tenure; reasons or grounds for removal, discharge, suspension or demotion.* The tenure of anyone holding an office, place or position or employment under the provisions of this section shall be only during good behavior, and any such person may be removed, discharged or suspended, suspended without pay, demoted or reduced in rank, for the following reasons:

(1) Any fireman may be suspended without pay not to exceed 30 days, demoted or reduced in rank, or fined not exceeding \$50 for the violation of the written rules and regulations of the Commission. Any fine so levied shall be paid into the firemen's pension fund.

(2) A fireman may be suspended for more than 30 days or may be removed only upon 1 of the following grounds:

(a) Drunkenness or the use of narcotics while on duty to such an extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee and which prevents the employee from properly performing the functions and duties of any position under civil service;

(b) Willful failure to carry out the direct lawful orders of a superior officer;

(c) Failure to report for duty at the time scheduled without giving notice of

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inability to report: provided, however, that such failure to report is not caused by sudden illness, accident or other circumstances beyond his or her control that would prevent him or her from giving such notice;

(d) Failure to report for duty when directly ordered to do so: provided, that the fireman is well and able to carry out his or her duties. Examination and opinion of any physician appointed by the Commission shall be conclusive in this regard;

(e) Solicitation or acceptance of a bribe;

(f) Conviction of a felony;

(g) Willful and repeated violations of the rules and regulations adopted by the Commission: provided, however, that repeated violations shall be the conviction of more than 2 violations in any 1 year; and

(h) Cowardice while on duty.

(I.C. 19-1-37.5-6)

*(G) Removal, discharge, suspension or demotion of persons in classified service; procedures; appeal.*

(1) No person in the classified civil service who shall have been permanently appointed or inducted into civil service under provisions of this section, shall be removed, suspended, demoted or discharged except for cause, and only upon the written accusation of the appointing power, or any citizen or taxpayer, a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the Commission. The Chief of the Fire Department may suspend a member pending the confirmation of the suspension by the regular appointing power under the section which must be within 3 days. Any person so removed, suspended, demoted or discharged may, within 10 days from the time of his or her removal, suspension, demotion or discharge, file with the Commission a written demand for an investigation, whereupon the Commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made for political or religious reasons, and was or was not made in good faith for cause. After such investigation, the Commission may, if in its estimation the evidence is conclusive, affirm the removal, or if it shall find that the removal, suspension, or demotion was made for political or religious reasons, or was not made in good faith for cause, shall, order immediate reinstatement or reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted or discharged, which reinstatement shall, if the Commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. The Commission, upon such investigation in lieu of affirming the removal, suspension, demotion or discharge, may modify the order of removal, suspension, demotion or discharge by directing a suspension without pay for a given period; and subsequent restoration of duty, or demotion in classification, grade, or pay, the findings of the Commission shall be certified, in writing, to the appointing power, and shall be forthwith enforced by such officer.

(2) All investigations made by the Commission pursuant to the provisions of this section shall be by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his or her defense. If such judgment or order be concurred

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in by the Commission or a majority thereof, the accused may appeal therefrom to the circuit court of the county wherein he or she resides. Such appeal shall be taken by serving the Commission, within 30 days after the entry of such judgment or order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the Commission affecting or relating to such judgment or order, be filed by the Commission with such court. The commission shall, within 10 days, after the filing of such notice, make, certify and file such transcript with such court. The circuit court shall thereupon proceed to hear and determine such appeal in a summary manner: provided, however, that such hearing be confined to the determination of whether the judgment or order of removal, discharge, demotion or suspension made by the Commission, was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds.

(I.C. 19-1-37.5-7)

(H) *Inspection of city books or records by Commission.* It shall be the duty of all officers and employees of any such city to aid in all proper ways of carrying out the provisions of this section, and such rules and regulations as may, from time to time, be prescribed by the Commission thereunder and to afford the Commission, its members and employees, all reasonable facilities and assistance to inspect all books, papers, documents and accounts applying or in any way appertaining to any and all offices, places, positions and employments, subject to civil service, and also to produce the books, papers, documents and accounts, and attend and testify, whenever required so to do by the Commission or any Commissioner: provided, however, that nothing in this section shall be construed so as to require, nor permit the inspection of the books or the records of the firefighters' union.

(I.C. 19-1-37.5-8)

(I) *Filling of vacancies: temporary appointees; probationary period; procedures.*

(1) Whenever a position in the classified service becomes vacant, the appointing power shall make requisition upon the Commission for the name and address of a person eligible for appointment thereto. The Commission shall certify the name of the person highest on the eligible list for the class to which the vacant position has been allocated, who is willing to accept employment. If there is no appropriate eligible list for the class, the Commission shall certify the name of the person standing highest on the list held appropriate for such class. If more than 1 vacancy is to be filled, an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint such person to such vacant position.

(2) Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the Commission shall forthwith certify the name of the person eligible for appointment to the appointing power, and the appointing power shall forthwith appoint the person so certified to the position. No person so certified shall be laid off; suspended, or given leave of absence from duty, transferred or reduced in pay or grade except for reasons which will promote the good of the service, specified in writing, and after an opportunity to be heard by the Commission and then only with its consent and approval.

(3) To enable the appointing power to exercise a choice in the filling of positions, no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of 6 to 12 months' probationary service, as may be provided in the rules of the Civil Service Commission during which the appointing power may terminate the employment of the person certified to him or her, or it, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing

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power deems him or her unfit or unsatisfactory for service in the Department. Whereupon the appointing power shall designate the person certified as standing next highest on any such list and such person shall likewise enter upon the duties until some person is found who is deemed fit for appointment, employment or promotion for the probationary period provided herefor, whereupon the appointment, employment or promotion shall be deemed to be complete: provided, however, that no person shall receive a permanent appointment unless he or she is accepted as a permanent member by the Board of Trustees of the firemen's pension fund and any person who fails to be accepted by the pension fund at the end of the probationary period shall be forthwith discharged, upon receipt of a resolution of the pension fund trustees that the person is unfit physically or mentally for permanent employment.

(I.C. 19-1-37.5-9)

(J) *Promotions: examinations; seniority; required rank; review.* All promotions shall be made pursuant to written and oral examinations and based upon seniority. Seniority shall count for 60% of the eligibility for promotion, 1/4 of a point shall be given for each month of service including probationary period up to a maximum of 60 points, the written examination for 30% and the oral examination for 10%; provided, however, that no candidate for promotion shall be considered who fails to achieve a passing score, as defined by the Commission or examining officer, on the written examination.

(1) All promotions to any rank shall be from the next immediate lower rank and provided that the person to be promoted shall have qualified in time of service as designated by the Commission; provided, however, that the Chief of the Fire Department be appointed in the manner expressed in division (C) of this section.

(2) All applicants for promotion shall be given an identical examination in the presence of each other, which promotional examination shall be entirely in writing, and all of the questions asked therein shall be prepared and composed in such a manner that the grading of the examination papers can be promptly completed immediately after the holding of the examination. When 1 of the applicants taking an examination for promotion has completed his or her answers, the grading of such examination shall begin, and all of the examination papers shall be graded as they are completed, at the place where the examination is given and in the presence of any applicants who wish to remain during the grading. Each applicant shall have the opportunity to examine his or her examination and his or her answers thereto together with the grading thereof and if dissatisfied, shall, within 5 days, appeal the same to the Commission for review.

(I.C. 19-1-37.5-10)

(K) *Power of appointment and to fix compensation not infringed.* 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 in conjunction, as a Mayor, Chief, Common Council, Commission or otherwise, is or are vested by law at and prior to the taking effect of this law, with power and authority to select, appoint, or employ any person coming within the purview of this section, and nothing herein contained shall infringe upon the power and authority of any such person or group of persons, or appointing power, to fix the salaries and compensation of all employees employed hereunder.

(I.C. 19-1-37.5-11)

(L) *Certificate of Commission required for payment of compensation.* No treasurer, auditor, comptroller or other officer or employee of any city, town, or municipality in which this section is effective, shall approve the payment of or be in any manner concerned in paying, auditing or approving any salary wage or other compensation for services, to any person subject

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to the jurisdiction and scope of this chapter, unless a payroll, estimate or account for such salary, wage or other compensation containing the names of persons to be paid, the amount to be paid to each such person, the services on account of which same is paid, and any other information which, in the judgment of the Civil Service Commission, should be furnished on the payroll, bears the certificate of the Civil Service Commission or of its secretary or other duly authorized agent, that the persons named in such payroll, estimate or account have been appointed or employed in compliance with the terms of this section and with the rules of the Commission, and that the payroll, estimate or account is, so far as known to the Commission, a true and accurate statement. The Commission shall refuse to certify the pay of any public officer or employee whom it finds to be illegally or improperly appointed, and may further refuse to certify the pay of any public officer or employee who shall willful or through culpable negligence violate or fail to comply with this section or with the rules of the Commission.

(I.C. 19-1-37.5-12)

(M) *Leave of absence without pay: temporary employment.* Leave of absence, without pay, may be granted by any appointing power to any person under civil service: provided, that such appointing power shall give notice of such leave to the Commission. All temporary employment caused by leaves of absence shall be made from the eligible list of the classified civil service.

(I.C. 19-1-37.5-13)

(N) *Enforcement of chapter and rules.* The Commission shall begin and conduct all civil suits which may be necessary for the proper enforcement of this section and of the rules of the Commission. The Commission shall be represented in such suits by the chief legal officer of the city, but the Commission may in any case be represented by special counsel appointed by it.

(I.C. 19-1-37.5-14)

(O) *Denial of applicant's rights prohibited.* No Commissioner or any other person shall, by himself or herself or in cooperation with 1 or more persons, defeat, deceive, or obstruct any person in respect of his or her right of examination or registration according to the rules and regulations of this section, or falsely mark, grade, estimate or report upon the examination of proper standing of any person examined, registered or certified pursuant to the provisions of this section, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified, or persuade any other person, or permit or aid in any manner other person to impersonate him or her in connection with examination or registration or application or request to be examined or registered.

(I.C. 19-1-37.5-15)

(P) *Political contributions or services barred.* No person holding any office, place, position, or employment subject to civil service, shall be under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever, and no person shall be removed, reduced in grade, or salary, or otherwise prejudiced for refusing to do so. No public officer, whether elected or appointed, shall discharge, promote, demote or in any manner change the official rank, employment, or compensation of any person under civil service, or promise or threaten to do so, for giving or withholding, or neglecting to make any contribution of money, or services, or any other valuable thing, for any political purpose.

(I.C. 19-1-37.5-16)

(Q) *Offices, supplies and equipment and clerical assistance for Commission.* The duly constituted authorities of each and every city coming within the purview of this section, shall

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provide the Commission with suitable and convenient rooms and accommodations and cause the same to be furnished, heated and lighted and supplied with all office supplies and equipment necessary to carry on the business of the Commission and with such clerical assistance as may be necessary, all of which is to be commensurate with the number of persons in each such city coming within the purview of this section.

(I.C. 19-1-37.5-17)

(R) *Commission to implement chapter; failure to do so as violation.* Each Commission appointed subject to the provisions of this section, shall immediately organize and see to it that the provisions thereof are carried into effect, and to this end make suitable rules and regulations not inconsistent with the purpose of this section, for the purpose of putting the provisions thereof into effect; and the failure upon the part of the Commission or any individual member thereof to do so shall be deemed a violation of this section, and shall be punishable as such.

(I.C. 19-1-37.5-18)

(S) *Violations.* A person who knowingly violates this section commits a Class A misdemeanor.

(I.C. 19-1-37.5-19)

(T) *Definitions.* As used in this section, the following mentioned terms shall have the following described meanings.

(1) The term **COMMISSION** means the Civil Service Commission herein created, and the term **COMMISSIONERS** means any 1 of the 3 Commissioners of that Commission.

(2) The term **APPOINTING POWER** includes every person or group of persons who, acting singly or in conjunction, as a Mayor, Common Council, Commission, or otherwise, is or are, vested by law with power and authority to select, appoint, or employ any person to hold any office, place, position or employment subject to civil service.

(3) The term **APPOINTMENT** includes all means of selection, appointing or employing any person to hold any office, place, position or employment subject to civil service.

(4) The term **CITY** includes all cities, towns, and municipalities having a full paid Fire Department, or a Fire Department having paid members.

(5) The term **FULL PAID FIRE DEPARTMENT** or **FIRE DEPARTMENT HAVING PAID MEMBERS** means a Fire Department the officers and firemen employed in which are paid regularly by the city and devote their whole time to firefighting.

(I.C. 19-1-37.5-20)

(U) *Adoption of Civil Service system in a certain city: procedures.* The Civil Service system provided for in this chapter may be adopted in a city having a population of more than 100,000 but less than 125,000 in a county of 3 or more second class cities only through the procedures set forth in this section.

(1) Not later than 60 days after the passage of this law, the Board of Public Works and Safety of a city shall give at least a 1 weeks' notice to all active members of the city fire force that a meeting will be held of the members for the purpose of adopting or rejecting the merit plan set forth in this section. Such notice shall be given by the Board by posting the same in prominent places in the central fire station, and which notice shall designate the time, place and purpose of

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the meeting. Members of such Department who are unable to attend any meeting for the purpose of adopting or rejecting the merit plan set forth in this section may vote by virtue of a written proxy: provided, that no member shall vote more than 1 proxy vote besides his or her own vote, and all voting shall be by secret written ballot. In such meeting, 1 member of the fire force shall be selected as Chairperson, and no one shall be entitled to be present at the meeting except active members of the fire force.

(2) If a majority of the members of the active fire force voting upon the question shall vote in favor, the merit plan contained in this chapter shall be in full force and effect as of January 1 next following the taking of such vote, and appointments to the Civil Service Commission created herein shall be made not later than 60 days from the going into effect of the merit plan contained in this chapter. If the vote upon the question shall be in the negative, no such proposal shall be put to a vote of the active members of such fire force sooner than 1 year from the day of first holding a meeting for such purpose.

(I.C. 19-1-37.5-21)

(V) *Conflicting ordinances superseded.* All ordinances or parts thereof in conflict with the provisions of this section are hereby declared superseded insofar as they conflict with the provisions of this section.

(I.C. 19-1-37.5-22)

(W) *Effect of chapter.* Nothing in this chapter shall be deemed to affect, amend or repeal any portion of I.C. 19-1-37; I.C. 18-1; and all laws amendatory or supplemental thereto.

(I.C. 19-1-37.5-23)

(X) *Declaration of intent.* It is the intent of the Common Council through this section to reaffirm former I.C. §§ 19-1-37.5-1 *et seq.* as the governing authority of the City of Hobart Civil Service Fire Commission, subject only to the amendment stated above in division (B) of this section, and to repeal and otherwise render ineffective any existing ordinances or sections thereof which attempt or have attempted to alter, replace, substitute, or change such governing authority to that of I.C. § 36-8-3.5 either in whole or in part.

(Ord. 97-13, § 4)

***Editor's note:***

*Indiana Code 19-1-37.5-1 et seq. was formerly Acts 1972, Pub. L. No. 4, § 1, as amended by Acts 1978, Pub. L. No. 2, § 1905 and Acts 1981, Pub. L. No. 184, § 2.*

**§ 93.013 FIRE HYDRANTS.**

**(A) General Requirements.**

(1) All owners and developers of Class 1 structures or portions of Class 1 structures constructed after the taking effect of this Section shall provide and install a water supply capable of providing the required fire flow for fire-fighting purposes for a minimum of two (2) hours. The Chief of the Fire Department, or the State Fire Marshal or his or her designee shall determine said flow in accordance with the International Fire Code (IFC), Appendix B entitled "Fire Flow Requirements for Buildings," as in effect from time to time, and in accordance with Subsection (B)(2) below.

(2) Fire hydrants shall be installed by owners and developers of Class 1 structures or portions of Class 1 structures constructed after the taking effect of this Section to serve such

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structures or portions thereof pursuant to the requirements of the water utility having jurisdiction. The number and location of hydrants to be installed shall be determined by the Chief of the Hobart Fire Department, State Fire Marshal or his or her designee.

(3) Fire hydrants shall be placed on eight (8) inch or larger water main and outlets 18 inches above finished grade, and shall be located not more than eight feet from the edge of pavement.

(4) No temporary water system shall be used without the prior written approval of the Chief of the Hobart Fire Department, the State Fire Marshal or his or her designee.

(5) Fire hydrants shall only be used for fire protection, or as so directed by the water utility having jurisdiction. Fire hydrants which are not in service shall be covered with a bag indicating "Out of Service." Fire hydrants shall be kept clear and accessible at all times.

(6) The design, placement and configuration of water supply and hydrants for fire-fighting purposes shall be approved by the Chief of the Hobart Fire Department before the issuance of any building permit and site plan approval for the structure.

### *(B) Multiple Family, Commercial and Industrial Development.*

(1) Fire hydrants shall be installed no more than 300 feet apart on a public or private road. When any portion of a building being protected is in excess of 150 feet from a water supply on a public or private road, there shall be provided on site, mains and hydrants capable of supplying the fire flow as required by the City of Hobart Fire Chief, the State Fire Marshal or his or her designee. Required fire flow shall be calculated in accordance with the National Fire Protection Association Standards 1231 and 1142.

(2) *Required Water Supply for Fire Protection.* A water supply capable of supplying the required fire flow, for firefighting purposes, as determined by local ordinance, shall be provided to all premises upon which a Class 1 building or a portion of Class 1 buildings are hereafter constructed. The water supply shall be provided as follows:

(a) When a public water supply is available to a premises, there shall be provided fire hydrants and mains capable of supplying the required fire flow.

(b) When a public water supply is not available to a premises, the water supply shall consist of a pond, stream, river, canal, lake, reservoir, quarry, pressure tank, elevated tank, swimming pool, other fixed systems, or fire department delivered portable system capable of providing the required fire flow. The on-site water supply shall be accessible to the fire department and be located within one hundred fifty (150) feet of the Class 1 building or structure being protected with an automatic fire-extinguishing system. If the on-site water supply is not within one hundred fifty (150) feet of the structure being protected, the water supply shall be connected to on-site fire hydrants and mains capable of supplying the required fire flow. The owner shall verify the water supply requirements with the City of Hobart Fire Department prior to final design and construction.

(c) As provided in the sections of the Indiana Fire Code.

*(C) Single Family Residential Development.* Fire hydrants shall be installed no more than 50 feet apart on a public or private road.

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(D) *Sprinkler Systems or Standpipes.* Fire hydrants installed to provide fire suppression augmentation for sprinkler systems or standpipes shall be installed within 50 feet of Fire Department Connection or as required by the Chief of the City of Hobart Fire Department, State Fire Marshal or his or her designee.

(E) *Dry Hydrants.*

(1) Dry hydrants may be required to be installed when an available static water supply is available in the development to be used as an additional water supply for fire protection. Dry hydrants are to be placed within eight feet of the roadway and 32 inches above grade.

(2) The connection is to be a six-inch male connection National Standard Thread with cap. Specifications of required installations are available through the Hobart Fire Department or State Fire Marshal’s office.

(F) *Public and Private Fire Hydrants.*

(1) Public fire hydrants shall be painted “safety yellow” in accordance with the regulations of the water utility having jurisdiction. Private fire hydrants shall be painted per current edition of NFPA 291 (Fire Flow Testing and Marking of Hydrants). The barrel is to be painted “safety yellow”. The top portion (bonnet) and nozzle caps to be painted with the following color scheme to indicate flow capacity:

<u>Class</u>	<u>Capacity</u>	<u>Color</u>
Class AA	1500 gpm or greater	Light blue
Class A	1000 gpm to 1400 gpm	Green
Class B	500 gpm to 999 gpm	Orange
Class C	499 gpm or less	Red

(2) The type and model of fire hydrants to be installed shall be in accordance with the requirements of the water utility having jurisdiction.

(G) *Enforcement.* Violation of this section is subject to the penalties prescribed in §10.99 of the Municipal Code. In addition, the City Attorney or his or her designee may enjoin the attempted development or construction of a Class 1 structure or portion thereof in violation of the provisions of this Section as a common nuisance, and may pursue any other remedy afforded under Chapter 96 of the Municipal Code.

(Ord. 2014-41)

***BUREAU OF FIRE PREVENTION***

**§ 93.025 CREATED.**

The Bureau of Fire Prevention in the Fire Department of the city is established, which shall be operated under the supervision of the Chief of the Fire Department.

(Prior Code, § 6-2) (Ord. 604, § 2)

**§ 93.026 DIRECTOR DESIGNATED.**

The Chief of the Fire Department shall designate an officer or member of the Fire Department as Director of the Bureau of Fire Prevention, who shall hold this office at the pleasure of the Chief of the Fire Department.  
(Prior Code, § 6-3) (Ord. 604, § 2)

**§ 93.027 INSPECTORS; ADDITIONAL MEMBERS' DUTIES.**

The Chief of the Fire Department shall determine the number of inspectors in the Bureau of Fire Prevention and shall detail members of the Fire Department to duties in the Bureau.  
(Prior Code, § 6-4) (Ord. 604, § 2)

**§ 93.028 DUTIES.**

(A) It shall be the duty of the members of the Bureau of Fire Prevention to enforce all laws, provisions of this code and other city ordinances covering the following:

- (1) The prevention of fires;
- (2) The storage and use of explosives and flammables;
- (3) The elimination of hazards in existing buildings and structures, including those under construction;
- (4) The means and adequacy of exit in case of fire from factories, schools, hotels, lodging houses, hospitals, churches, halls, theaters and all other places in which numbers of persons work, meet, live or congregate, from time to time, for any purpose; and
- (5) The investigation of the cause, origin and circumstances of fires.

(B) They shall have such other powers and perform such other duties as set forth in other sections of this code, other ordinances and as may be conferred and imposed from time to time by law.  
(Prior Code, § 6-5) (Ord. 604, § 4)

**§ 93.029 OFFICES CREATED; LIEUTENANT AND CAPTAIN; REAPPOINTMENT.**

There is created in the Fire Department of the city the positions of Fire Lieutenant and Fire Captain. Appointments and reappointments to these positions shall be made by the Mayor on the recommendation of the Fire Chief.  
(Prior Code, § 6-5.1) (Ord. 769, § 1)

**§ 93.030 INSPECTIONS GENERALLY.**

(A) The Chief of the Fire Department, Director of the Bureau of Fire Prevention or any inspector may, at all reasonable hours, enter any building, lodging house or premises, except

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interiors of private dwellings, within his or her jurisdiction for the purpose of making any inspection or investigation, which, under the provisions of this chapter, he or she may deem necessary to be made.

(B) It shall be the duty of the Chief of the Fire Department to inspect or cause to be inspected by the Bureau of Fire Prevention or by the Fire Department officers and members, as often as may be necessary, all buildings, lodging houses and premises, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions likely to cause fire, or any violations of the provisions or intent of any provisions of this code or other ordinances of the city affecting the fire hazard.

(C) The Chief of the Fire Department, Director of the Bureau of Fire Prevention or any inspector specially designed thereto shall inspect, as often as may be necessary, all especially hazardous manufacturing processes, storages or installations of gases, chemicals, oils, explosive and flammable materials or interior fire alarm and automatic sprinkler systems, portable fire extinguishers or other fire extinguishing appliances and such other hazards or appliances as the Chief of the Fire Department shall designate, and shall issue such order as may be necessary for the enforcement of the laws, provisions of this code and other city ordinances governing the same and for safeguarding of life and property from fire.

(D) It shall be the duty of the Chief of the Fire Department to inspect or cause to be inspected by the Bureau of Fire Prevention or by the Fire Department officers or members each place of assembly in order to ensure compliance with all laws, regulations and orders dealing with use of decorations, maintenance of exitways, collapse of revolving doors and maintenance of fire appliances in such places of assembly. Where conditions are found to be unsatisfactory, written orders for immediate correction shall be given.

(E) The Chief of the Fire Department, Director of the Bureau of Fire Prevention or any inspector, upon the complaint of any person or whenever he or she shall deem it necessary, shall inspect all buildings, lodging houses and premises within his or her jurisdiction. Whenever any of such officers shall find any building or other structure which, for want of repairs, lack of sufficient fire escapes, automatic or other fire alarm apparatus or fire extinguishing equipment or by reason of a dilapidated condition or from any other cause, is especially likely to fire, or which is so situated as to endanger other property or the occupants thereof and whenever such officers shall find, in any building, combustible or explosive matter of flammable conditions dangerous to the safety of the building or the occupants thereof, he or she shall order such dangerous conditions or materials to be removed or remedied in such manner as will be specified by the Director of the Bureau of Fire Prevention.

(Prior Code, § 6-6) (Ord. 604, § 4)

### ***FIRE HAZARDS***

#### **§ 93.045 ORDERS TO REMOVE.**

Whenever any inspector shall find in any building, lodging house or upon any premises combustible or explosive matter or dangerous accumulations or rubbish or unnecessary accumulations of wastepaper, boxes, shavings or any highly flammable materials, and which is so situated as to endanger life or property; or, shall find obstructions to or on fire escapes to or on

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fire escapes, stairs, passageways, doors or windows, liable to interfere with the operations of the Fire Department or egress of occupants in case of fire, he or she shall order the same to be removed or remedied.

(Prior Code, § 6-7) (Ord. 604, § 4)

### **§ 93.046 BUILDING MOVING, DEMOLITION; NOTICE.**

Whenever any building, lodging house, wall or other structure or any part thereof shall have been declared to be a fire hazard and ordered repaired, torn down or removed by the Chief of the Fire Department or the Director of the Bureau of Fire Prevention, it shall be the duty of the Chief of the Fire Department to forthwith notify the Building Official, in writing, of the order, listing the reasons therefor.

(Prior Code, § 6-8) (Ord. 604, § 4)

### **§ 93.047 POSTING OF SIGNS.**

In the event any building, lodging house, wall or other structure or any part thereof shall have been declared to be a fire hazard and ordered repaired, torn down or removed, the Bureau of Fire Inspection shall affix a sign to the building, wall or structure, which shall be prominently displayed with lettering thereon reading: "Condemned. By order of the Chief of the Fire Department." The sign shall remain affixed until removal thereof is authorized by the Chief of the Fire Department or the Building Official. The removal of such sign without authorization as aforesaid shall constitute a violation of this chapter.

(Prior Code, § 6-9) (Ord. 604, § 4) Penalty, see § 10.99

### **§ 93.048 DISCONNECTION OF DEFECTIVE EQUIPMENT.**

When the fire hazard is permitted to continue in existence by the owner or occupant after having received an order to abate the same, and the Director of the Bureau of Fire Prevention or 1 of the inspectors shall find and determine from the facts that the danger to human life has been materially increased by defective electrical wiring, defective appliances, defective gas plumbing or defective gas appliances, the Director or inspector shall give notice of the defects to the Electrical Inspector or Plumbing Inspector, and if they shall find and determine that the danger to human life is materially increased, then the Inspector shall disconnect the gas or electrical services immediately.

(Prior Code, § 6-10) (Ord. 604, § 4)

### **§ 93.049 SERVICE OF ORDERS; APPEALS.**

(A) (1) The service of orders mentioned in this chapter may be made upon the owner, occupant or other person responsible for the conditions, either by delivering a copy of same personally or by delivering the same to and leaving it with any person in charge of the premises or by affixing a copy thereof in a conspicuous place on the door to the entrance of the premises.

(2) Whenever it may be necessary to serve such an order upon the owner of the premises, the order may be served either by delivering to and leaving with the person a copy of the order or, if the owner is absent from the jurisdiction of the officers making the order, by

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mailing the copy by registered mail to the owner’s last known post office address.

(B) If buildings, lodging houses or other premises are owned by 1 person and occupied by another under lease or otherwise, the orders issued in connection with enforcing of this chapter shall apply to the occupant above, except where the rules or orders require the making of additions to or changes in the premises themselves, such as would immediately become real estate and be the property of the owner of the premises; in such case, the rules or orders shall affect the owner and not the occupant unless it is otherwise agreed between the owner and the occupant.

(C) Any such order shall be forthwith complied with by the owner or occupant of the premises, lodging house or building. If the order is made by the Director of the Bureau of Fire Prevention or 1 of the Inspectors, the owner or occupant may, within 5 days, appeal to the Chief of the Fire Department, who shall, within 10 days review the order and file his or her decision thereon and, unless by his or her authority the order is revoked, or modified, it shall remain in full force and be complied with within the time fixed in such order or decision of the Chief of the Fire Department.

(Prior Code, § 6-11) (Ord. 604, § 5)

***FIRE BOARD OF APPEALS***

**§ 93.060 COMPOSITION.**

The Fire Board of Appeals shall consist of the Director of the Bureau of Fire Prevention, the city’s Attorney, the Building Official and 2 members of the Common Council.

(Prior Code, § 6-12) (Ord. 604, § 6)

**§ 93.061 PROCEDURE; QUORUM.**

The Fire Board of Appeals shall adopt its own rules of procedure and keep a record of its proceedings and its actions. The presence of 3 members shall be necessary to constitute a quorum.

(Prior Code, § 6-13) (Ord. 604, § 6)

**§ 93.062 AUTHORITY; TIME LIMITATION.**

(A) Whenever the Chief of the Fire Department shall have reviewed an order of the Director or Inspector of the Bureau of Fire Prevention and filed his or her decision thereon, an appeal from the decision of the Chief of the Fire Department may be taken to the Fire Board of Appeals.

(B) The Fire Board of Appeals shall only hear appeals from the ruling of the Chief of the Fire Department. The appeals shall be made within 10 days from the date on which the Chief of the Fire Department has filed his or her decision on the order before him or her. The appellant shall file with the Bureau of Fire Prevention and with the Fire Board of Appeals a written notice of appeal, specifying the grounds thereof. The Bureau of Fire Prevention shall, upon receiving notice of the appeal, transfer to the Fire Board of Appeals all documents constituting the record

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upon which the action appealed was taken.  
(Prior Code, § 6-14) (Ord. 604, § 6)

### **§ 93.063 POWERS.**

(A) The Fire Board of Appeals is empowered and authorized to modify any of the provisions of orders issued pursuant to this chapter upon application, in writing, by the owner, lessee or his or her duly authorized agent, where there are practical difficulties in the way of carrying out the strict letter of this chapter; provided that, the spirit of this chapter shall be observed, public safety secured and substantial justice done. The particulars of the modification, when granted or allowed and the decision of the Fire Board of Appeals, shall be entered upon the records, and a signed copy shall be furnished the applicant.

(B) (1) The Fire Board of Appeals is empowered and authorized to modify any of the provisions of this chapter where there are practical difficulties in the way of carrying out the strict letter of this chapter; provided that, the spirit of this chapter shall be observed, public safety secured and substantial justice done.

(2) The decision of the Fire Board of Appeals shall be complied with within the time fixed in the order by the Board.  
(Prior Code, § 6-15) (Ord. 604, §§ 4, 6)

### **§ 93.064 FURTHER APPEALS.**

(A) Any owner or occupant who feels himself or herself aggrieved by any order or affirmed order of the Fire Board of Appeals may, within 10 days after the making or affirming of any such order, file his or her petition with the Circuit Court or Superior Court of Lake County, praying a review of the order.

(B) It shall be the duty of the courts to hear the same on the first convenient day and to make the order in the premises as right and justice may require.

(C) The decision shall be final.  
(Prior Code, § 6-16) (Ord. 604, § 6)

## ***SMOKE DETECTORS***

### **§ 93.080 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***MOBILE HOME RENTAL.*** Any mobile home or trailer occupied by or offered for occupancy to an individual as a residence on a rental basis.

***MULTIPLE-FAMILY DWELLING UNIT.*** Any building that contains living quarters for 2

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or more occupancies, and shall include hotels, motels, boarding houses, sleeping room houses, buildings of mixed occupancy, having any residential units, nursing homes, convalescent homes, licensed halfway houses or lodging houses.

**SLEEPING AREA.** The area of a unit in which bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate sleeping areas, but bedrooms or sleeping rooms separated by a bathroom are not separate sleeping areas.

**SMOKE DETECTOR.** A device which detects particles or products of combustion other than heat, approved by Underwriters' Laboratories, Inc., or Factory Mutual, equipped with a test button, and may be either battery powered, minimum 9 volt or 110 volt AC.

(Prior Code, § 6-31) (Ord. 1816, (part))

### § 93.081 SMOKE DETECTORS REQUIRED.

All multiple-family dwelling units and all mobile home rentals shall be equipped with smoke detectors.

(Prior Code, § 6-32) (Ord. 1816, (part))

### § 93.082 LOCATION.

Smoke detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to the rooms used for sleeping purposes. Where a common hallway is used, smoke detectors shall be spaced not more than 25 feet apart in such hallway. All smoke detectors shall be located either on the ceiling, not less than 6 inches from any wall, or on a wall, not less than 6, nor more than 12 inches from the ceiling, and within 15 feet of all rooms used for sleeping purposes. No detector shall be recessed into the ceiling.

(Prior Code, § 6-33) (Ord. 1816, (part))

### § 93.083 INSTALLATION.

If a smoke detector is AC powered, it must be directly attached to a junction box not controlled by any switch other than the main power supply. The installation of AC powered detectors shall conform to all electrical standards adopted by the city. A smoke detector required under this subchapter shall be installed according to the directions and specifications of the manufacturer, but if in conflict with any city electrical standard, the city electrical standard shall take precedence.

(Prior Code, § 6-34) (Ord. 1816, (part))

### § 93.084 MAINTENANCE.

(A) (1) It is unlawful for any person to tamper or remove any smoke detector except when it is necessary for maintenance or inspection purposes.

(2) Any smoke detector removed for repair or replacement must be reinstalled or replaced so that it is in place during normal sleeping hours.

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(B) At every change of tenant in every multiple-family dwelling unit or mobile home rental, smoke detectors shall be tested to see that they are in operable condition.  
(Prior Code, § 6-35) (Ord. 1816, (part)) Penalty, see § 10.99

### **§ 93.085 RESPONSIBILITY.**

(A) Every owner, manager or agent of any multiple-family dwelling unit or mobile home rental shall be responsible for the installation and maintenance of all smoke detectors.

(B) This requirement applies to smoke detectors required by any state or federal law as well as by this subchapter, unless otherwise required by state or federal law.  
(Prior Code, § 6-36) (Ord. 1816, (part))

### **§ 93.086 CERTIFICATE OF COMPLIANCE.**

(A) Between January 1 and January 31 each year, the owner of each dwelling unit and mobile home in which a smoke detector has been installed shall certify, in writing, on forms prescribed by the city to the Fire Prevention Bureau of the Hobart Fire Department that the required maintenance has been performed on all detectors in the owner's units and that the detectors are in good working condition as of the date of certification.

(B) Each owner shall certify to each new occupant of any dwelling unit and mobile home covered by this subchapter that all smoke detectors required have been installed and are in proper working condition.  
(Prior Code, § 6-37) (Ord. 1816, (part))

### **§ 93.087 ENFORCEMENT AUTHORITY.**

The Building Department and the Fire Department of the city shall be charged with the duty of enforcing the terms of this subchapter.  
(Prior Code, § 6-38) (Ord. 1816, (part))

## ***RECOVERY OF FIRE PROTECTION COSTS***

### **§ 93.100 RECOVERY OF FIRE PROTECTION COSTS.**

(A) Pursuant to I.C. 8-1-2-103(d), the costs for the production, storage, transmission, sale, delivery or furnishing of water for public fire protection purposes ("fire protection costs") shall be included in the basic rates and charges of all customers of Indiana American Water Company, Inc. ("IAWC") located within the City of Hobart in the manner and to the extent permitted by statute.

(B) Effective upon the date of this change in the manner of recovering fire protection costs, IAWC shall cease directly billing the City of Hobart for fire protection costs other than charges

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for the construction cost for new hydrants installed on and after the date of the change, as provided in I.C. 8-1-2-103(d).

(C) Notwithstanding this change in the recovery of fire protection costs, the construction cost of any fire hydrants installed at the request of the City of Hobart shall continue to be paid for by or on behalf of the City of Hobart.

(Ord. 2005-39, § 1)

**§ 93.999 REPEALED.** See now §10.99

(Prior Code, § 6-39) (Ord. 1816, (part)) (Repealed by Ord. 2020-36, § 2)