



## **SOUTH BEND COMMON COUNCIL**

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### **MEETING AGENDA**

Monday, August 14, 2017  
7:00 P.M.

1. **INVOCATION- PASTOR ANDRE STONER, KERN ROAD MENNONITE CHURCH**
2. **PLEDGE TO THE FLAG**
3. **ROLL CALL**
4. **REPORT FROM THE SUB-COMMITTEE ON MINUTES**
5. **SPECIAL BUSINESS**

BILL NO.

[17-28](#) A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, PUBLICLY COMMENDING AND HONORING VICE CHANCELLOR KAREN L. WHITE FOR OVER 42 YEARS OF DEVOTED SERVICE AND COMMITMENT TO THE STUDENTS OF INDIANA UNIVERSITY- SOUTH BEND

6. **REPORTS FROM CITY OFFICES**

7. **COMMITTEE OF THE WHOLE**

**TIME:** \_\_\_\_\_

BILL NO.

[45-17](#) PUBLIC HEARING ON AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY: THE FIRST NORTH/SOUTH ALLEY WEST OF LAUREL STREET RUNNING SOUTH FROM JEFFERSON BLVD. TO FIRST EAST/WEST ALLEY, AND NORTH FROM JEFFERSON BLVD. TO FIRST EAST/WEST ALLEY

[46-17](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA AMENDING CHAPTER 13, ARTICLE 5, SECTION 13-75.5 OF THE SOUTH BEND MUNICIPAL CODE TO ADD DEALING IN A SYNTHETIC DRUG LOOKALIKE SUBSTANCE TO THE LIST OF PROHIBITED ACTIVITIES CONSTITUTING A DISORDERLY HOUSE

8. **BILLS ON THIRD READING**

**TIME:** \_\_\_\_\_

BILL NO.

[45-17](#) THIRD READING ON AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY: THE FIRST NORTH/SOUTH ALLEY WEST OF LAUREL STREET RUNNING SOUTH FROM JEFFERSON BLVD. TO FIRST EAST/WEST ALLEY, AND NORTH FROM JEFFERSON BLVD. TO FIRST EAST/WEST ALLEY

[46-17](#) THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA AMENDING CHAPTER 13, ARTICLE 5, SECTION 13-75.5 OF THE SOUTH BEND MUNICIPAL CODE TO ADD DEALING IN A SYNTHETIC DRUG LOOKALIKE SUBSTANCE TO THE LIST OF PROHIBITED ACTIVITIES CONSTITUTING A DISORDERLY HOUSE

9. **RESOLUTIONS**

BILL NO.

10. **BILLS ON FIRST READING**

BILL NO.

[47-17](#) FIRST READING ON AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY: THE SOUTHERN PORTION OF THE NORTH/SOUTH STREET EAST 213 FEET OF EAST RIGHT OF WAY OF SOUTH TAYLOR ST. AND RUNNING SOUTH 250 FEET FROM SOUTH RIGHT OF WAY OF WEST WESTERN AVE. TO INCLUDE A PORTION RUNNING 34 FEET FROM WEST RIGHT OF WAY OF WILLIAM ST. TO SOUTH RIGHT OF WAY OF SOUTH WILLIAM ST.

[48-17](#) FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING A SECTION OF CHAPTER 2, ARTICLE 6 OF THE SOUTH BEND MUNICIPAL CODE PERTAINING TO TAX ABATEMENTS

[49-17](#) FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF SOUTH BEND, INDIANA, AMENDING SECTION 4-51 OF CHAPTER 4, ARTICLE 4 OF THE SOUTH BEND MUNICIPAL CODE PERTAINING TO LICENSING AND REGULATION OF SCRAP METAL, JUNK DEALERS, VALUABLE METAL DEALERS AND RECYCLING OPERATIONS

11. **UNFINISHED BUSINESS**

[BOYD V. HISTORIC PRESERVATION APPEAL](#)- COA 2017-0602A

12. **NEW BUSINESS**

13. **PRIVILEGE OF THE FLOOR**

14. **ADJOURNMENT**

**TIME:** \_\_\_\_\_

**Notice for Hearing and Sight Impaired Persons**  
**Auxiliary Aid Or Other Services Are Available Upon Request At No Charge.**  
**Please Give Reasonable Advance Request When Possible.**

*In the interest of providing greater public access and to promote greater transparency, the South Bend Common Council agenda has been translated into Spanish. All agendas are available online from the Council's website, and also in paper format in the Office of the City Clerk, 4<sup>th</sup> Floor County-City Building. Reasonable efforts have been taken to provide an accurate translation of the text of the agenda, however, the official text is the English version. Any discrepancies which may be created in the translation, are not binding. Such translations do not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the Common Council or the City of South Bend, Indiana.*





## OFFICE OF THE CITY CLERK

KAREEMAH FOWLER, CITY CLERK

### MEMORANDUM

**TO:** MEMBERS OF THE COMMON COUNCIL  
**FROM:** KAREEMAH FOWLER, CITY CLERK  
**DATE:** AUGUST 10, 2017  
**SUBJECT:** COMMITTEE MEETING NOTICE

The following Common Council Committee Meetings have been scheduled for **MONDAY, AUGUST 14, 2017** at:

Council Informal Meeting Room  
4<sup>th</sup> Floor County-City Building  
227 W. Jefferson Blvd.  
South Bend, IN 46601

**3:30 P.M.**      **PUBLIC WORKS & PROPERTY VACATION**      **JOHN VOORDE, CHAIRPERSON**  
1. [Bill No. 45-17](#)- Edmondson Alley Vacation

**3:45 P.M.**      **HEALTH & PUBLIC SAFETY**      **JO M. BRODEN, CHAIRPERSON**  
1. *Substitute* [Bill No. 46-17](#)- Synthetic Marijuana Ordinance

**4:30 P.M.**      **INFORMATION TECHNOLOGY**      **TIM SCOTT, CHAIRPERSON**  
1. SBPD Body Cam Briefing- Chief Scott Ruskowski

Council President Tim Scott has called an **Informal Meeting** of the Council which will commence immediately after the adjournment of the Information Technology Committee.

**INFORMAL MEETING OF THE COMMON COUNCIL**      **TIM SCOTT, PRESIDENT**

1. Discussion of Council Agenda
2. Update and Announcements
3. Adjournment

cc: Mayor Pete Buttigieg  
Committee Meeting List  
News Media

**NOTICE FOR HEARING AND SIGHT IMPAIRED PERSONS**  
**Auxiliary Aid or Other Services may be Available upon Request at No Charge.**  
**Please give Reasonable Advance Request when Possible**

455 County-City Building • 227 W. Jefferson Boulevard • South Bend, Indiana 46601  
Phone 574-235-9221 • Fax 574-235-9173 • TDD 574-235-5567 • [www.SouthBendIN.gov](http://www.SouthBendIN.gov)

JENNIFER M. COFFMAN  
CHIEF DEPUTY  
DIRECTOR OF OPERATIONS

ALKEYNA M. ALDRIDGE  
DEPUTY CLERK  
DIRECTOR OF POLICY

JOSEPH R. MOLNAR  
ORDINANCE VIOLATIONS  
BUREAU CLERK





## 2017 COMMON COUNCIL STANDING COMMITTEES (Rev. 01-4-17)

### COMMUNITY INVESTMENT COMMITTEE

Oversees the various activities of the Department of Community Investment. This Committee reviews all real & personal tax abatement requests.

Gavin Ferlic, Chairperson

Regina Williams-Preston, Vice-Chairperson

Oliver Davis, Member

Randy Kelly, Member

### COMMUNITY RELATIONS COMMITTEE

Oversees the various activities of the Office of Community Affairs and is charged with facilitating partnerships & ongoing communications with other public and private entities operating within the City.

Regina Williams-Preston, Chairperson

Randy Kelly, Vice-Chairperson

Gavin Ferlic, Member

Karen White, Member

### COUNCIL RULES COMMITTEE

Oversees the regulations governing the overall operation of the Common Council, as well as all matters of public trust. Its duties are set forth in detail in Section 2-10.1 of the *South Bend Municipal Code*.

Tim Scott, Member

Jo Broden, Member

Dr. David Varner, Member

Karen White, Member

### HEALTH AND PUBLIC SAFETY COMMITTEE

Oversees the various activities performed by the Fire and Police Departments, EMS, Department of Code Enforcement, ordinance violations, and related health and public safety matters.

Jo Broden, Chairperson

John Voorde, Vice-Chairperson

Oliver Davis, Member

Karen L. White, Member

### INFORMATION AND TECHNOLOGY COMMITTEE

Oversees the various activities of the City's Division of Information Technologies in the Department of Administration & Finance so that the City of South Bend remains competitive and on the cutting edge of developments in this area. Reviewing and proposing upgrades to computer systems and web sites, developing availability & access to GIS data and related technologies are just some of its many activities.

Tim Scott, Chairperson

Gavin Ferlic, Vice-Chairperson

Dave Varner, Member

Randy Kelly, Member

### PARC COMMITTEE (Parks, Recreation, Cultural Arts & Entertainment)

Oversees the various activities of the Century Center, College Football Hall of Fame, Coveleski Regional Stadium, Morris Performing Arts Center, Studebaker National Museum, South Bend Regional Museum of Art, Potawatomi Zoo, and the many recreational and leisure activities offered by the Department of Parks and Recreation.

Randy Kelly, Chairperson

Dr. Dave Varner, Vice-Chairperson

Oliver Davis, Member

John Voorde, Member



## 2017 COMMON COUNCIL STANDING COMMITTEES (Rev. 01-4-17)

### **PERSONNEL AND FINANCE COMMITTEE**

Oversees the activities performed by the Department of Administration and Finance, and reviews all proposed salaries, budgets, appropriations & other fiscal matters, as well as personnel policies, health benefits & related matters.

Karen L. White, Chairperson  
Gavin Ferlic, Vice-Chairperson

Regina Williams-Preston, Member  
John Voorde, Member

### **PUBLIC WORKS AND PROPERTY VACATION COMMITTEE**

Oversees the various activities performed by the Building Department, the Department of Public Works & related public works & property vacation issues.

John Voorde, Chairperson  
Randy Kelly, Vice-Chairperson

Jo M. Broden, Member  
Gavin Ferlic, Member

### **RESIDENTIAL NEIGHBORHOODS COMMITTEE**

Oversees the various activities & issues related to neighborhood development & enhancement.

Karen White, Chairperson  
Jo Broden, Vice-Chairperson

Regina Williams-Preston, Member  
John Voorde, Member

### **UTILITIES COMMITTEE**

Oversees the activities of all enterprise entities including but not limited to the Bureau of Waterworks, Bureau of Sewers and all related matters.

Dr. David Varner, Chairperson  
Oliver Davis, Vice-Chairperson

Randy Kelly, Member  
Regina Williams-Preston, Member

### **ZONING AND ANNEXATION COMMITTEE**

Oversees the activities related to the Board of Zoning Appeals, recommendations from the Area Plan Commission and the Historic Preservation Commission, as well as all related matters addressing annexation and zoning.

Oliver Davis, Chairperson  
John Voorde, Vice-Chairperson

Gavin Ferlic, Member  
Jo Broden, Member

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### **SUB-COMMITTEE ON MINUTES**

Reviews the minutes prepared by the Office of the City Clerk of the regular, special and informal meetings of the Common Council and makes a recommendation on their approval/modification to the Council

Tim Scott  
Dr. David Varner





## 2016 COMMON COUNCIL STANDING COMMITTEES (Rev.01-4-17)

### **TIM SCOTT, 1<sup>ST</sup> District Council Member**

#### **PRESIDENT**

Information and Technology, Chairperson

Council Rules Committee, Member  
Sub-Committee on Minutes, Member

### **REGINA WILLIAMS-PRESTON 2<sup>nd</sup> District Council Member**

Community Relations Committee, Chairperson  
Community Investment Committee, Vice-Chairperson

Residential Neighborhood Committee, Member  
Personnel & Finance Committee, Member  
Utilities Committee, Member

### **RANDY KELLY, 3<sup>rd</sup> District Council Member**

PARC Committee, Chairperson  
Community Relations Committee, Vice Chairperson  
Public Works & Property Vacation, Vice Chair

Community Investment Committee, Member  
Information & Technology Committee, Member  
Utilities Committee, Member

### **JO BRODEN, 4<sup>TH</sup> District Council Member**

Health and Public Safety Committee, Chairperson  
Residential Neighborhood Committee, Vice-Chairperson

Council Rules Committee, Member  
Public Works & Property Vacation, Member  
Zoning & Annexation Committee, Member

### **DR. DAVID VARNER, 5<sup>TH</sup> District Council Member**

Utilities Committee, Chairperson  
PARC Committee, Vice-Chairperson

Information & Technology Committee, Member  
Council Rules Committee, Member  
Sub-Committee on Minutes, Member

### **OLIVER DAVIS, 6<sup>TH</sup> District Council Member**

Zoning & Annexation Committee, Chairperson  
Utilities Committee, Vice-Chairperson

Community Investment Committee, Member  
Health & Public Safety Committee, Member  
PARC Committee, Member

### **GAVIN FERLIC, AT LARGE Council Member**

#### **Chairperson, Committee of the Whole**

Community Investment Committee, Chairperson  
Information & Technology Committee, Vice-Chairperson  
Personnel & Finance Committee, Vice-Chairperson

Community Relations Committee, Member  
Public Works & Property Vacation, Member  
Zoning & Annexation Committee, Member

### **KAREN L. WHITE, AT LARGE Council Member**

Residential Neighborhood Committee, Chairperson  
Personnel & Finance Committee, Chairperson

Community Relations Committee, Member  
Council Rules Committee, Member  
Health & Public Safety Committee, Member

### **JOHN VOORDE, AT LARGE Council Member**

Public Works & Property Vacation, Chairperson  
Health and Public Safety, Vice-Chairperson  
Zoning & Annexation Committee, Vice-Chairperson

Residential Neighborhood Committee, Member  
PARC Committee, Member  
Personnel & Finance Committee, Member





Bill No. 17-28  
Resolution No. \_\_\_\_\_

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, PUBLICLY COMMENDING AND HONORING VICE CHANCELLOR KAREN L. WHITE FOR OVER 42 YEARS OF DEVOTED SERVICE AND COMMITMENT TO THE STUDENTS OF INDIANA UNIVERSITY- SOUTH BEND

WHEREAS, Karen L. White is originally from Buffalo, New York, and she relocated to South Bend at an early age. She attended Harrison Elementary School on South Bend's westside and graduated from Central High School. Ms. White received her Bachelor's Degree in psychology and social work from Indiana State University, Terre Haute, and her Master's in Education from Indiana University, and

WHEREAS, On September 1, 1974, Karen joined Indiana University-South Bend staff as a counselor, and after over 42 years of exemplary service, Karen White will retire, and

WHEREAS, Karen's road to community service began while she was a high school student and has continued throughout her college and professional life, and

WHEREAS, service to family, community, and education are the hallmarks of Karen L. White's journey. And she is a firm believer—in thought and deed—in the tenet, as stated by Marian Wright Edelman: "Service is the rent we pay for living." She is the only African American who has served both as the President of the South Bend Community School Corporation Board of Directors, and as President of the South Bend Common Council, and

WHEREAS, Ms. White is a proud alumna of Indiana University-South Bend and has served in various capacities for over 42 years. From her beginning days as a counselor, frequently recognized for her exemplary administrative leadership skills, Karen has served in many key administrative roles, and

WHEREAS, she became the Assistant Vice Chancellor for Student Affairs, and Director of the Freshman Division, in 1989. In 2000, she began to serve as Assistant Vice Chancellor for Academic Affairs and Dean of Students. She was also asked to serve as Interim Vice Chancellor for Student Affairs and Enrollment Management from July 1 to October 31, 2007. Then, she became Director of the Summer Leadership Academy in 2008 and has continued to serve in that role for many years since. From her appointment in 2005 until today, Karen holds the position of Associate Vice Chancellor for Student Services and Dean of Students, and

WHEREAS, her greatest joy remains her ability to work with students. She has taught the University Life Seminar for nearly a decade. The students in her seminar, numbering in the hundreds, have all graduated. She has always said that they – and every student – are her babies and she would have them "for life!" Those statements have proven true, as many of the children of those students have been mentored and guided by Karen.

WHEREAS, Ms. White has received numerous awards and honors for her many civic and public services, including the E. Ross Bartley Memorial Award presented by Indiana University in recognition of meritorious and extraordinary administrative and supporting services, and the 2012 Charlie Nelms Alumni Award for her dedication to ensuring access and success of students at IU South Bend, and

WHEREAS, the "Your Dreams are Possible" Karen White Scholarship has been instituted in her honor to support underrepresented students or a 21<sup>st</sup> Century Scholar, with financial need.

Now, therefore, be it resolved by the Common Council of the City South Bend, Indiana, as follows:

**Section I.** The Common Council of the City of South Bend, Indiana, publicly honors and congratulates Karen L. White on her integrity, knowledge and commitment to service. Throughout her tenure at Indiana University- South Bend, she has served generations of students with grace.

**Section II.** Although, Karen will continue to serve the residents of South Bend in various capacities, the Common Council wishes Karen the best as she begins the next journey of her life in retirement.

**Section III.** This Resolution shall be in full force and effect from and after its adoption by the Council and approval by the Mayor.

\_\_\_\_\_  
Tim Scott, 1<sup>st</sup> District

\_\_\_\_\_  
Oliver J. Davis, 6<sup>th</sup> District

\_\_\_\_\_  
Regina Williams Preston, 2<sup>nd</sup> District

\_\_\_\_\_  
John Voorde, At Large

\_\_\_\_\_  
Randy Kelly, 3<sup>rd</sup> District

\_\_\_\_\_  
Gavin Ferlic, At Large

\_\_\_\_\_  
Jo M. Broden, 4<sup>th</sup> District

\_\_\_\_\_  
Robert Palmer, Council Attorney

\_\_\_\_\_  
Dr. David Varner, 5<sup>th</sup> District

**Attest:**

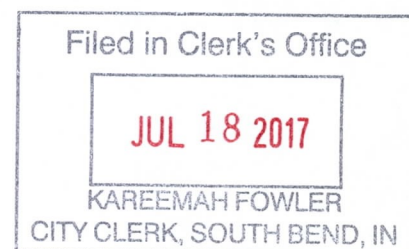
**Approved this 14<sup>th</sup> day of August, 2017**

\_\_\_\_\_  
Kareemah N. Fowler, City Clerk

\_\_\_\_\_  
Pete Buttigieg, Mayor of South Bend

July 17, 2017

Office of the City Clerk  
Kareemah Fowler, City Clerk  
455 County-City Building  
227 W. Jefferson Blvd.  
South Bend, IN 46601



To whom it may concern:

Attached are the documents required for the public right-of-way vacation of the alley extending from the 1100 block of W. Jefferson Blvd. north towards Washington St. and south towards Thomas St. You will find the following items to support our request:

1. Petition to Vacate
2. Ordinance
3. Envelopes addressed and stamped with certified mail for all property owners within one hundred fifty feet (150') of the right-of-way to be vacated
4. Filing fee of \$150 (check).
5. A copy of the radius map.

Please consider this letter the final requirement of "a letter briefly explaining why you are submitting a petition to vacate."

We have lived at 1102 W. Jefferson since 2001, and have acquired the properties located at 1042 W. Jefferson and 1035 W. Jefferson over the past several years. 1035 W. Jefferson is being maintained as a "pocket park" for the neighborhood, and we are in the process of major renovations to our home, which will eventually be moved to 1042 W. Jefferson. Vacation of the alleys will enhance pedestrian safety (especially considering neighborhood children often play in the park at 1035 W. Jefferson) and reduce the possibility of dumping in the alleys (which is often an issue). Further, we plan to parcel 1042 and 1102 together for simplification of the renovation process. We plan to restrict automobile traffic through both alleys, although proper access will be provided for utility vehicles as needed. We appreciate the Board of Public Works' assistance with this process and look forward to a smooth hearing.

Sincerely,

A handwritten signature in blue ink, appearing to read "Karl and Margaret Edmonson".

Karl and Margaret Edmonson

1316 COUNTY-CITY BUILDING  
227 W. JEFFERSON BOULEVARD  
SOUTH BEND, INDIANA 46601-1830



PHONE 574/235-9251  
FAX 574/235-9171

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR  
**BOARD OF PUBLIC WORKS**

June 13, 2017

Filed in Clerk's Office

JUL 18 2017

KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

Karl and Megyn Edmondson  
1042 W. Jefferson Blvd.  
South Bend, IN 46601

RE: Alley Vacation – North/South Alley West of Laurel Street running South from Jefferson Blvd. to 1<sup>st</sup> East/West Alley, and North from Jefferson Blvd. to 1<sup>st</sup> East/West Alley (Preliminary Review)

Dear Mr. and Mrs. Edmondson:

The Board of Public Works, at its June 13, 2017, meeting, reviewed comments by the Engineering Division, Area Plan Commission, Community Investment, Fire Department, Police Department, and the Solid Waste Division. The following comments and recommendations were submitted:

Area Plan stated, per IC 36-7-3-13, the vacation would not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous. The vacation would not make access to the lands of the aggrieved person by means of public way difficult or inconvenient. The vacation would not hinder the public's access to a church, school or other public building or place. The vacation would not hinder the use of a public right of way by the neighborhood in which it is located or to which it is contiguous.

Therefore, the Board of Public Works submitted a favorable recommendation for the vacation of this alley.

**Please contact Donna Hanson at (574) 235-9254 prior to picking up your radius map.** You will need a radius map showing properties within 150' of the proposed vacation for your petition to the Common Council. Once you pick up the radius map, proceed to the City Clerk's office for your alley vacation packet.

Sincerely,

Linda M. Martin, Clerk

c: Federico Rodriguez, Fire Department  
Donna Hanson, Engineering  
Alkeyna Aldridge, City Clerk's Office



Filed in Clerk's Office  
**JUL 18 2017**  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

## SOUTH BEND COMMON COUNCIL

### PETITION TO VACATE PUBLIC RIGHTS-OF-WAY (STREETS/ALLEY)

DATE: 7/17/17

To the Common Council of the City of South Bend, Indiana. I (we), the undersigned property owner(s), petition you to vacate:

1. THE ALLEY DESCRIBED AS:

The first N/S alley W 585' of E. RoW of Laurel St. running N ~157' from  
W. Jefferson north RoW and running S ~ 159' from W. Jefferson south RoW.

2. THE STREET DESCRIBED AS:

N/A

Abutting Property Owner(s) Signatures:

Name (print):	Signature	Address	Lot Number
Randy Beckman		1105 W. Jefferson Blvd.	018-3070-2728
<u>1.(Centennial Properties, LLC)</u>			

2.

3.

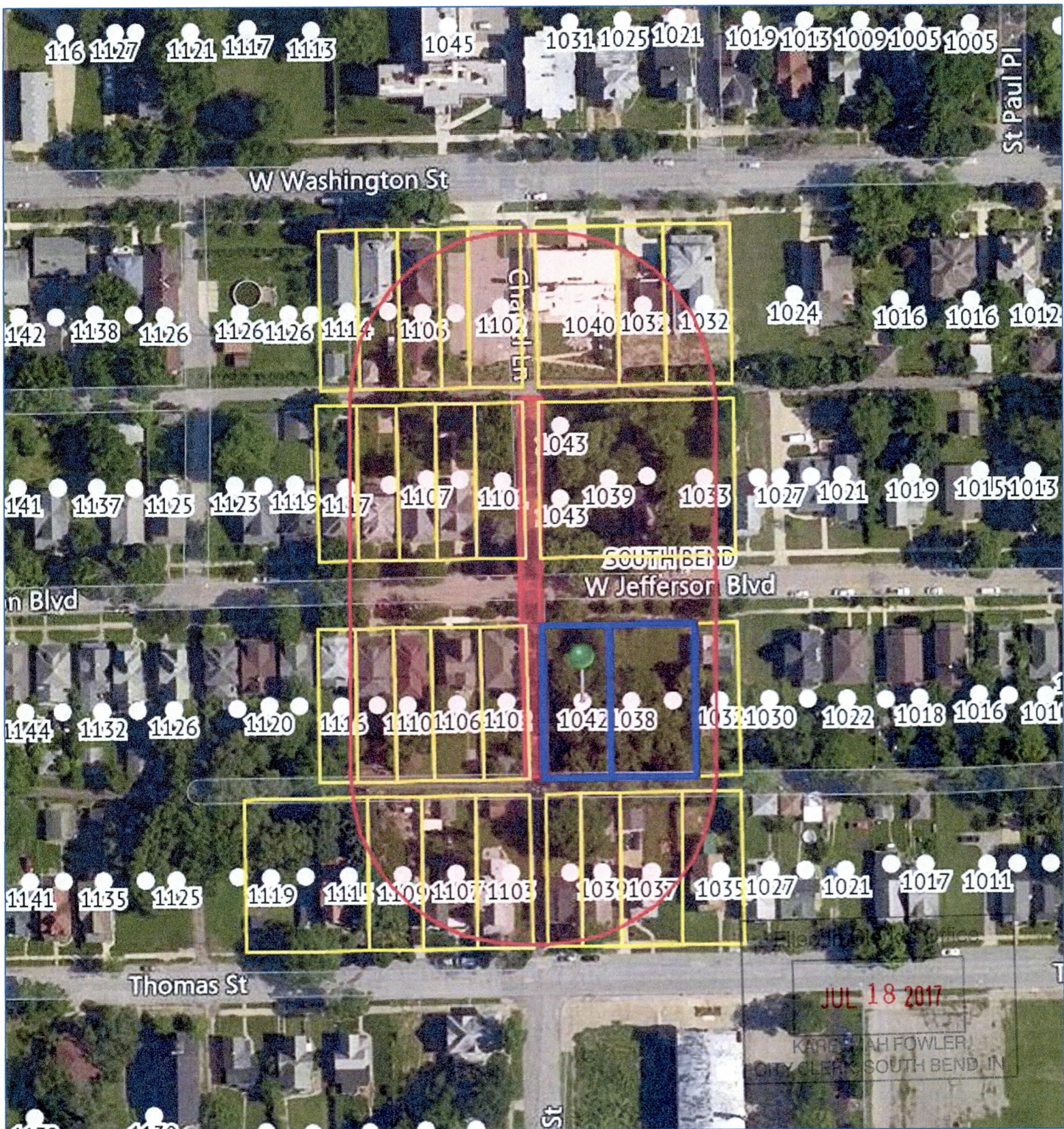
All other abutting properties owned by petitioner.

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JENNIFER M. COFFMAN  
CHIEF DEPUTY/ CHIEF OF STAFF

ALKEYNA M. ALDRIDGE  
DEPUTY/ DIRECTOR OF POLICY

JOSEPH R. MOLNAR  
ORDINANCE VIOLATION CLERK



City of South Bend  
 Dept. of Public Works  
 227 W Jefferson Blvd. #1316  
 South Bend, IN 46601  
 Phone: (574) 235-9251

150' Buffer  
 \*Address List attached

Date Prepared: 7/14/2017

### Alley Vacation 150' Radius Map Karl and Megyn Edmonson

The alleys to be vacated are the first N/S alley W 585' of E. RoW of Laurel St. running N ~157' from W. Jefferson north RoW and running S ~ 159' from W. Jefferson south RoW.

JUL 18 2017

KAREN BAH FOWLER  
 CITY CLERK SOUTH BEND, IN



**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY:

THE FIRST NORTH/SOUTH ALLEY WEST OF LAUREL STREET RUNNING SOUTH FROM JEFFERSON BLVD. TO FIRST EAST/WEST ALLEY, AND NORTH FROM JEFFERSON BLVD. TO FIRST EAST/WEST ALLEY

STATEMENT OF PURPOSE AND INTENT

Pursuant to Indiana Code Section 36-7-3-12, the Common Council is charged with the authority to hear all petitions to vacate public ways or public places within the City. The following Ordinance vacates the above described public property.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, as follows:

SECTION I. The Common Council of the City of South Bend having held a Public Hearing on the petition to vacate the following property:

The first N/S alley W 585' of E. RoW of Laurel St. running N-157' from W. Jefferson north RoW and running S-159' from W. Jefferson south RoW

hereby determines that it is desirable to vacate said property.

SECTION II. The City of South Bend hereby reserves the rights and easements of all utilities and the Municipal City of South Bend, Indiana, to construct and maintain any facilities, including, but not limited to, the following: electric, telephone, gas, water, sewer, surface water control structures and ditches, within the vacated right-of-way, unless such rights are released by the individual utilities.

SECTION III. The following property may be injuriously or beneficially affected by such vacating:

018-3070-2728 (1105 W. Jefferson)-Centennial Properties, Inc.  
All other abutting properties owned by petitioner

Section IV. The purpose of the vacation of the real property is to enhance pedestrian safety, prohibit dumping , enable parceling of 1042 and 1102 W. Jefferson.

SECTION V. This ordinance shall be in full force and effect from and after its Passage by the Common Council and approval by the Mayor.

---

Tim Scott, Council President  
South Bend Common Council

*Attest:*

---

Kareemah N. Fowler, City Clerk  
Office of the City Clerk

*Presented by me to the Mayor of the City of South Bend, Indiana, on  
the \_\_\_\_ day of \_\_\_\_\_, 2016 at \_\_\_\_ o'clock \_\_\_\_ M*

---

Kareemah N. Fowler, City Clerk  
Office of the City Clerk

*Approved and signed by on the \_\_\_\_ day of \_\_\_\_\_, 2016 at \_\_\_\_  
o'clock \_\_\_\_ M*

---

Peter Buttigieg, Mayor  
City of South Bend, Indiana

**SUB. BILL NO. 46-17**

**ORDINANCE NO.**

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA AMENDING CHAPTER 13, ARTICLE 5, SECTION 13-75.5 OF THE SOUTH  
BEND MUNICIPAL CODE TO ADD DEALING IN A SYNTHETIC DRUG  
LOOKALIKE SUBSTANCE TO THE LIST OF PROHIBITED ACTIVITIES  
CONSTITUTING A DISORDERLY HOUSE**

---

**STATEMENT OF PURPOSE AND INTENT**

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The recent proliferation within the South Bend community of products and synthetic look alike substances, specifically those used as alternatives to marijuana has resulted in death and severe injury to young persons, particularly males. The cannabis synthetic drug lookalike products, known generally as cannabinoids, or as “cannabimimetic agents” under the federal Synthetic Drug Abuse Prevention Act 21 U.S.C. 812(d) (1), “are deceptively dangerous, and their effects far more devastating than natural, plant forms of cannabis. Known short term effects include mental alteration including hallucinations, agitation, psychosis, aggression, suicidal, homicidal ideation, as well as physical effects such as acute kidney injury. The long term effects of these substances are yet unknown.

In 2014 the State of Indiana created a new category of “synthetic drug lookalike substances” to distinguish them from “synthetic drugs,” the possession, possession with intent to deliver or with intent to finance the delivery of, the manufacture, delivery, or finance with intent to deliver are all illegal under Ind. Code §35-48-4-11.5 and under IC 35-48-4-10.5. Cannabinoids would be included under this broader category of synthetic drug look alike substances. Definition at IC 35-31.5-2-321.5.

Protection of the community and youth of the City of South Bend from the harsh, devastating effects of these substances should be undertaken to the highest extent reasonably possible under law. This ordinance is intended to address the dangers to the community posed by cannabinoids and similar synthetic drug lookalike substances through civil penalty and enforcement under the City’s existing Disorderly House ordinance.

This ordinance effectuates the desired specific inclusion of a “synthetic drug lookalike substance” within the definition of violations constituting disorderly houses, and is in the best interests of the City of South Bend.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA** as follows:

**SECTION I.** Chapter 13, Article 5, Section 13-75.5 (o) (6) of the South Bend Municipal Code shall be amended to read as follows:

South Bend Municipal Code

Sec. 13-75.5. - Disorderly houses; prohibited.

(a) *Definitions.*

- (1) For purposes of this section, *disorderly house* means a building, dwelling, establishment, premises or place where prohibited conduct occurs and it includes the outside area contiguous to and surrounding the structure such as a yard or lot under the same ownership. If the building, dwelling, establishment, premises or place is a multiple-unit dwelling or residence, hotel or motel, or commercial or office building, this definition applies only to that dwelling unit, room or suite of rooms in the hotel or motel, office rooms or suite, store, lot or yard in or on which prohibited conduct occurs.
- (2) For purposes of this section, *owner* means:
  - (a) The recorded owner of the property, as determined by the records of the St. Joseph County Assessor's Office;
  - (b) Any party with an equitable interest in the property, provided that such equitable interest is recorded; and
  - (c) The trustee of a land trust, if the land trust holds title to such property.
- (3) For purposes of this section, *occupant* means any person over sixteen (16) years of age whose domicile is the property upon which the prohibited conduct has been found to have occurred.
- (4) For purposes of this section, *vacant* means a building which is lacking the habitual presence of human beings who have a legal right to be on the premises, or at which substantially all lawful business operations or residential occupancy has ceased.
- (5) For purposes of this section, *prohibited conduct* means activities occurring in violation of the statutes or ordinances relating to any of the following:
  - a. *Gambling*, as defined in IC 35-45-5-1;
  - b. *Battery*, as defined in IC 35-42-2-1;
  - c. *Contributing to the delinquency of a minor*, as defined in IC 35-46-1-8;
  - d. *Resisting law enforcement*, as defined in IC 35-44-3-3;
  - e. *Disorderly conduct*, as defined in IC 35-45-1-3;
  - f. *Criminal recklessness*, as defined in IC 35-42-2-2;
  - g. *Discharge of firearms*, as prohibited by Section 13-58 of the South Bend Municipal Code;

- h. *Loud and raucous noise*, as prohibited by Section 13-57 of the South Bend Municipal Code;
- i. *Failure to keep vacant property secured against entry*, in violation of Sections 6-37 or 9-2 of the South Bend Municipal Code, or IC 36-7-9 (Unsafe Building Law) or any other fire or property maintenance codes constitutes prohibited conduct regardless of whether the City has issued a citation for the violation, issued an order to secure, or taken action to abate the condition.
- j. *Failure to comply with Section 16-53, (Conditions Constituting Public Nuisances), Section 16-58, (Duties of Owners or Persons in Control of Vacant Lots), or Section 16-59, (Removal of Vegetation)* of the South Bend Municipal Code constitutes prohibited conduct whenever the City has verified with the Department of Code Enforcement that such violation has occurred at the property three (3) or more times within a calendar year. Such violation constitutes prohibited conduct regardless of whether the City has taken action to abate the condition or conduct and regardless of whether the City has issued a citation for the violation.
- k. *Violations* of any of the following Indiana statutes governing the sale, possession, delivery or receipt of alcoholic beverages:
  1. *Sales, delivery or possession* in violation of IC 7.1-5-1-1;
  2. *Illegal possession by a minor* in violation of IC 7.1-5-7-7;
  3. *Furnishing alcohol to a minor* in violation of IC 7.1-5-7-8;
  4. *Inducing a minor to possess alcohol* in violation of IC 7.1-5-7-15;
  5. *Sale or delivery of alcoholic beverages to intoxicated persons* in violation of IC 7.1-5-10-15;
  6. *Receipt of alcoholic beverages from a person who does not hold a permit* in violation of IC 7.1-5-10-5;
  7. *Purchase of alcoholic beverages from a person who does not hold a permit* in violation of IC 7.1-5-10-7; or
  8. *Visiting or maintaining a common nuisance* in violation of IC 7.1-5-10-21.
- l. *Violations* of any of the following Indiana statutes governing:
  1. *Prostitution* in violation of IC 35-45-4-2;
  2. *Patronizing a prostitute* in violation of IC 35-45-4-3; or
  3. *Promoting prostitution* in violation of IC 35-45-6-1.
- m. *Violations* of any of the *Racketeering activity* in violations of IC 35-45-6-1.
- n. *Violations* of any of the following Indiana statutes governing:
  1. *Criminal gang activity* in violation of IC 35-45-9-3;
  2. *Criminal gang intimidation* in violation of IC 35-45-9-4; or
  3. *Criminal gang recruitment* in violation of IC 35-45-9-5.

- o. *Violations* of any of the following Indiana statutes governing:
1. Dealing in cocaine or a narcotic drug in violation of IC 35-48-4-1;
  2. Dealing in methamphetamine in violation of IC 35-48-4-1.1;
  3. Dealing in a schedule I, II or III controlled substance in violation of IC 35-48-4-2;
  4. Dealing in a schedule IV controlled substance in violation of IC 35-48-4-3;
  5. Dealing in a schedule V controlled substance in violation of IC 35-48-4-4.4; or
  6. Dealing in marijuana, hash oil, hashish, salvia, ~~or~~ a synthetic drug, or a synthetic drug lookalike substance such as cannabinoid in violation of IC 35-48-4-10 and IC 35-48-4-10.5, and as defined at IC 35-48-4-11.5 and IC 35-31.5-2-321.5. A cannabidiol or a substance containing cannabidiol used to treat epilepsy under IC 16-42-28.6 et seq. is excluded from this subpart.
  7. Use or possession of any of the substances described in subsections o.1. through and including 6., above, or the sale, use or possession of any other illicit narcotics or dangerous controlled substances.
- (b) *Public nuisance.* Whenever prohibited conduct as defined in subsection (a) of this section occurs in or upon a building, dwelling, establishment, premises or place, the City deems the building, dwelling, establishment, premises or place to be a disorderly house and a public nuisance.
- (c) *Notice to abate.* Whenever the South Bend Police Department or the Department of Code Enforcement has probable cause to believe that prohibited conduct has occurred in or upon a building, dwelling, establishment, premises or place, the City shall notify the owner of the property, and the occupants of the property that the building, dwelling, establishment, premises or place is a disorderly house and as such constitutes a public nuisance and that they must abate the public nuisance.
- (d) *Manner of serving notice.* The City shall be provide notice to the owner of the property and the occupants of the property in the manner provided by IC 36-7-9-25. The City deems the owner of the property and the occupants of the property responsible for any and all prohibited conduct occurring upon the premises after receipt of the notice.
- (e) *Penalty and injunctive relief.* Whenever prohibited conduct occurs upon a property after the City has provided notice to abate the public nuisance, the City may file an action in any court of general jurisdiction against the owner and/or occupants to enjoin the nuisance and to recover a fine of not less than two hundred fifty dollars (\$250.00) and not more than two thousand five hundred dollars (\$2,500.00) with each day of violation constituting a separate offense. In determining the amount of the fine to be imposed, the court may consider the attempts of the property owners or occupants to address the public nuisance.
- (f) *Eviction proceedings as a defense.* No owner shall be liable for a violation of this section if such owner initiates an eviction proceeding within thirty (30) days of receipt of notice of the prohibited conduct set forth in this section, and diligently pursues eviction proceedings to completion.

**SECTION II.** This Ordinance shall take effect upon passage by this Common Council, approval by the Mayor, and any publication required by law.

PASSED AND ADOPTED by the Common Council of the City of South Bend, Indiana this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Member, Common Council of the  
City of South Bend

ATTEST:

\_\_\_\_\_  
Kareemah Fowler, Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City for his approval on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, at \_\_\_\_\_ o'clock \_\_\_\_\_.m.

\_\_\_\_\_  
Kareemah Fowler, Clerk

Having examined the foregoing Ordinance, I do now, as the Mayor of the City of South Bend, approve said Ordinance and return the same to the Clerk of the City of South Bend this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Pete Buttigieg, Mayor

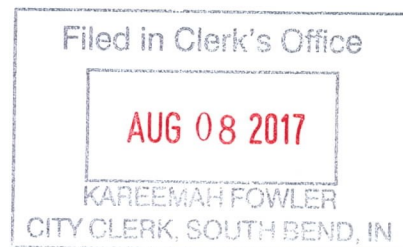






August 1, 2017

Rich Estes  
City of South Bend  
227 W. Jefferson Blvd.  
South Bend, IN 46601



**RE: Vacation request of Williams Street Cul-de-sac**

Dear Rich,

The purpose of this letter is to provide a formal request for the vacation of the Williams Street Cul-de-sac and the reason for such request. As an organization, it is always our intent to provide a 1<sup>st</sup> class experience for our guests while providing a facility that is second to none. With the new development under way for The Ivy at Berlin Place, we feel it for us to provide that 1<sup>st</sup> class experience we need to relocate our current fun zone, "inflatable area", due to the height of many of the inflatables. Several of these inflatables would obstruct the view for many of the new apartments that will face the field. In addition to the visual obstructions, the opportunity to relocate the inflatables will provide us a chance to layout out the area that will be more guest friendly.

It is our desire to relocate the inflatables to the south end of Williams street, the area that dead ends at Four Winds Field. Ultimately, we would extend the current fence line and concourse to the north where it would be in front of the west side of the team store. In addition to extending the concourse we would financially invest in raising the height of this new area so it would match the current height of the stadium concourse. We have been working with JPR along with Ancon Construction to develop a plan that allows for the fun zone to seamlessly fit in the area to the west of the current team store. The section of Williams street is currently dead ends at the ballpark fence line and it not currently used for anything significant as it relates to the ballpark.

Thank you for your help with this request and if you have any addition comments or need me to clarify anything further please let me know.

Sincerely,

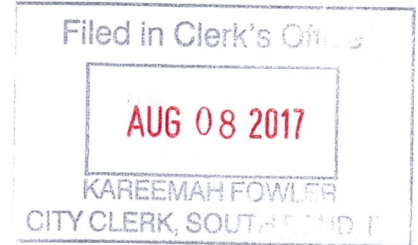
Joe Hart  
President  
South Bend Cubs

PETITION TO VACATE PUBLIC RIGHTS-OF-WAY  
(STREETS/ALLEYS)

TO THE COMMON COUNCIL  
OF THE CITY OF SOUTH BEND, INDIANA

DATE: \_\_\_\_\_


I (WE), THE UNDERSIGNED PROPERTY OWNER(S), PETITION YOU TO VACATE:



A. THE ALLEY DESCRIBED AS:  
N/A

B. THE STREET DESCRIBED AS:

A portion of Williams Street, being a part of Coveleski Park Minor Subdivision First Replat, the plat of which is recorded in Instrument No. 1706730, in the Office of the Recorder of St. Joseph County, Indiana, located in the Southeast Quarter of Section 11 and the Southwest Quarter of Section 12, Township 37 North, Range 2 East, City of South Bend, Portage Township, St. Joseph County, Indiana and being more particularly described as follows: Commencing at the southwest corner of Lot B in said Subdivision and being the east boundary of Williams Street; thence South 1 degree 12 minutes 58 seconds east 5.45 feet along said east boundary to the point of beginning of this description; thence continuing South 1 degree 12 minutes 58 seconds East 66.50 feet along said east boundary to an 'x' scribed in concrete at a corner of Lot A in said Subdivision; thence South 89 degrees 39 minutes 18 seconds West 95.01 feet along the north line of said Lot A and being the south boundary of Williams Street to an 'x' scribed in concrete at the southwest corner of Williams Street; thence North 1 degree 12 minutes 58 seconds West 116.20 feet along the west boundary of Williams Street to a Currier bar and cap at the northwest corner of said Street; thence North 89 degrees 17 minutes 40 seconds East 28.86 feet along the north boundary of Williams Street; thence South 1 degree 12 minutes 58 seconds East 50.26 feet; thence North 89 degrees 19 minutes 29 seconds East 66.14 feet to the point of beginning, and containing 7,740 square feet, more or less.

NAME (signed & printed)	ADDRESS	LOT #
<u></u> (signature)		018-3014-0515
City of South Bend	227 E. Jefferson Blvd., Suite 1400s	
Department of Community Investment	South Bend, IN 46601	

By Richard M. Estes (print name)

ORDINANCE NO. \_\_\_\_\_

## AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY:

THE SOUTHERN PORTION OF THE NORTH/SOUTH STREET EAST 213 FEET OF EAST RIGHT OF WAY OF SOUTH TAYLOR ST. AND RUNNING SOUTH 250 FEET FROM SOUTH RIGHT OF WAY OF WEST WESTERN AVE, TO INCLUDE A PORTION RUNNING 34 FEET FROM WEST RIGHT OF WAY OF WILLIAM ST TO SOUTH RIGHT OF WAY OF SOUTH WILLIAM ST.

STATEMENT OF PURPOSE AND INTENT

Pursuant to Indiana Code Section 36-7-3-12, the Common Council is charged with the authority to hear all petitions to vacate public ways or public places within the City.

The following Ordinance vacates the above described public property.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, as follows:

SECTION I. The Common Council of the City of South Bend having held a Public Hearing on the petition to vacate the following property:

*A portion of Williams Street, being a part of Coveleski Park Minor Subdivision First Replat, the plat of which is recorded in Instrument No. 1706730, in the Office of the Recorder of St. Joseph County, Indiana, located in the Southeast Quarter of Section 11 and the Southwest Quarter of Section 12, Township 37 North, Range 2 East, City of South Bend, Portage Township, St. Joseph County, Indiana and being more particularly described as follows: Commencing at the southwest corner of Lot B in said Subdivision and being the east boundary of Williams Street; thence South 1 degree 12 minutes 58 seconds east 5.45 feet along said east boundary to the point of beginning of this description; thence continuing South 1 degree 12 minutes 58 seconds East 66.50 feet along said east boundary to an 'x' scribed in concrete at a corner of Lot A in said Subdivision; thence South 89 degrees 39 minutes 18 seconds West 95.01 feet along the north line of said Lot A and being the south boundary of Williams Street to an 'x' scribed in concrete at the southwest corner of Williams Street; thence North 1 degree 12 minutes 58 seconds West 116.20 feet along the west boundary of Williams Street to a*

*Currier bar and cap at the northwest corner of said Street; thence North 89 degrees 17 minutes 40 seconds East 28.86 feet along the north boundary of Williams Street; thence South 1 degree 12 minutes 58 seconds East 50.26 feet; thence North 89 degrees 19 minutes 29 seconds East 66.14 feet to the point of beginning, and containing 7,740 square feet, more or less.*

Hereby determines that it is desirable to vacate said property.

SECTION II. The City of South Bend hereby reserves the rights and easements of all utilities and the Municipal City of South Bend, Indiana, to construct and maintain any facilities, including, but not limited to, the following: electric, telephone, gas, water, sewer, surface water control structures and ditches, within the vacated right-of-way, unless such rights are released by the individual utilities.

SECTION III. The following property may be injuriously or beneficially affected by such vacating:

*County Tax ID No. (No lot numbers)*

018-3013-0468;

018-3014-0515

Section IV. The purpose of the vacation of the real property is

South Bend Cubs wish to vacate the following described street to relocate their fun zone to the west side of the team store and extend the ball park concourse into the vacated portion of William Street.

SECTION V. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

\_\_\_\_\_  
Member of the Common Council

Attest:

\_\_\_\_\_

City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

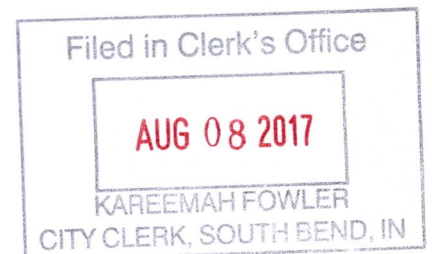
\_\_\_\_\_

City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

\_\_\_\_\_

Mayor, City of South Bend, Indiana



1316 COUNTY-CITY BUILDING  
227 W. JEFFERSON BOULEVARD  
SOUTH BEND, INDIANA 46601-1830

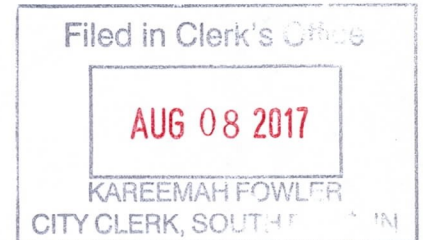


PHONE 574/ 235-9251  
FAX 574/ 235-9171

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR  
**BOARD OF PUBLIC WORKS**

August 8, 2017

Joe Hart  
South Bend Cubs  
501 W South Street  
South Bend, IN 46601



RE: Street Vacation – Williams Street Cul De Sac (Preliminary Review)

Dear Mr. Hart:

The Board of Public Works, at its August 8, 2017, meeting, reviewed comments by the Engineering Division, Area Plan Commission, Community Investment, Fire Department, Police Department, and the Solid Waste Division. The following comments and recommendations were submitted:

Per IC 36-7-3-13, the vacation would not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous. The vacation would not make access to the lands of the aggrieved person by means of public way difficult or inconvenient. The vacation would not hinder the public's access to a church, school or other public building or place. The vacation would not hinder the use of a public right of way by the neighborhood in which it is located or to which it is contiguous.

Therefore, the Board of Public Works submitted a favorable recommendation for the vacation of this alley.

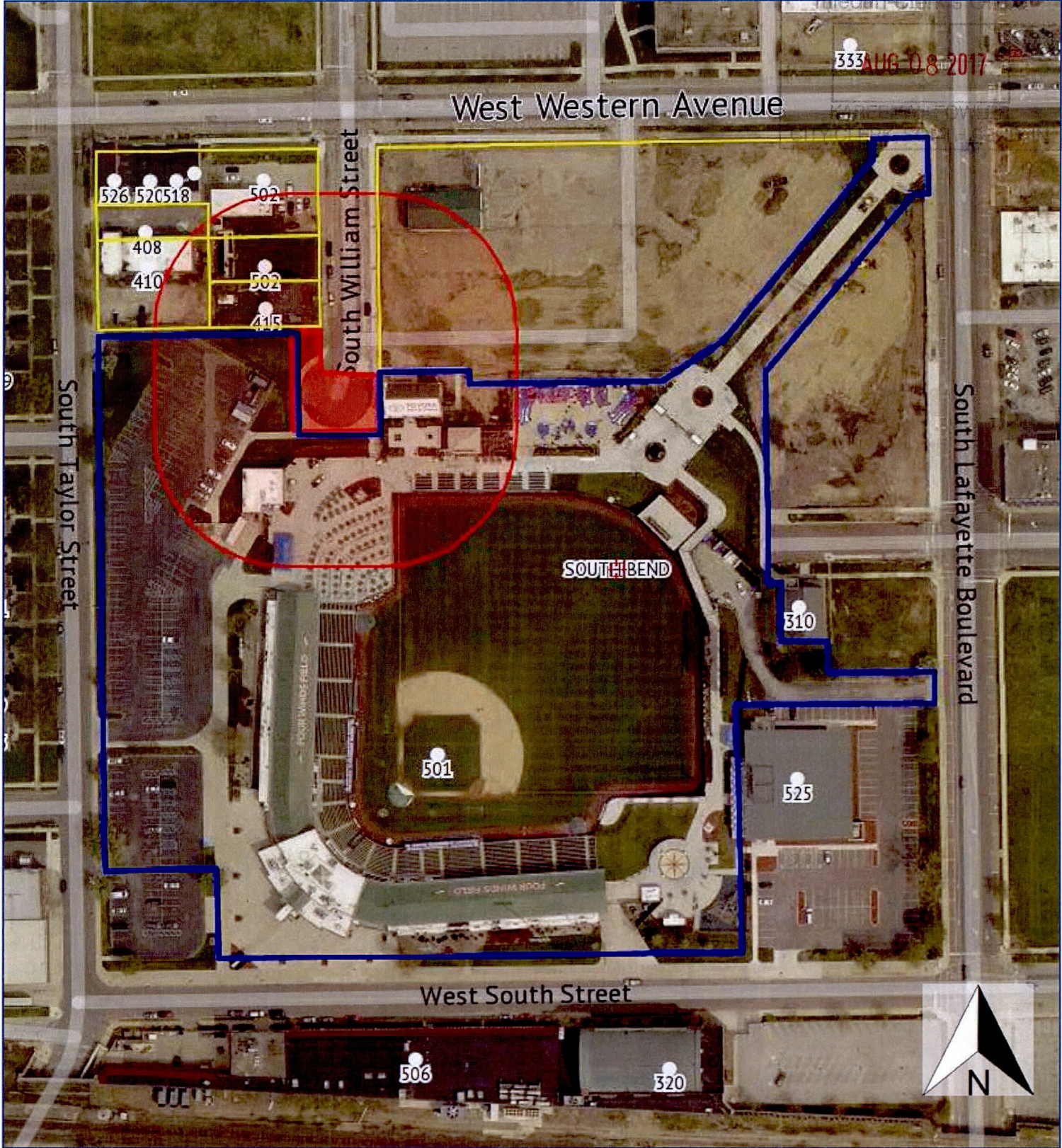
**Please contact Donna Hanson at (574) 235-9254 prior to picking up your radius map.** You will need a radius map showing properties within 150' of the proposed vacation for your petition to the Common Council. Once you pick up the radius map, proceed to the City Clerk's office for your alley vacation packet.

Sincerely,

Linda M. Martin, Clerk

c: Federico Rodriguez, Fire Department  
Donna Hanson, Engineering  
Alkeyna Aldridge, City Clerk's Office

333 AUG 08 2017



City of South Bend  
 Dept. of Public Works  
 227 W Jefferson Blvd. #1316  
 South Bend, IN 46601  
 Phone: (574) 235-9251

150' Buffer  
 \*Address List attached

Date Prepared: 7/27/2017

### Alley Vacation 150' Radius Map Joe Hart/South Bend Cubs

The street portion to be vacated is the southern portion of the N/S street E 213' of E. RoW of S. Taylor St. and running S 250' from S. RoW of W. Western Ave, to include a portion running 34' from W RoW of William St to S Row of S. William St.







# City of South Bend Common Council

441 County-City Building • 227 W. Jefferson Blvd  
South Bend, Indiana 46601-1830

(574) 235-9321  
Fax (574) 235-9173  
TDD: (574) 235-5567  
<http://www.southbendin.gov>

Tim Scott  
President

August 9, 2017

Oliver Davis  
Vice-President

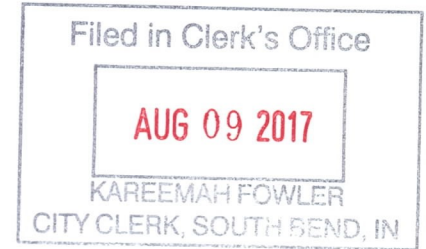
South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601

Gavin Ferlic  
Chairperson, Committee  
of the Whole

Re: *Proposed Tax Abatement Amendment*

Tim Scott  
First District

Dear Council Members:



Regina Williams Preston  
Second District

I am filing the attached proposed ordinance amendment for section 2, Article 6, section 2-76.3 of the municipal code with the Office of the City Clerk. The proposed amendment adds the requirement that applicants for a base abatement be required to pay all company employees (full-time, part-time, seasonal and temporary) a minimum wage at least as high as the minimum wage paid to all employees of the City of South Bend.

Randy Kelly  
Third District

Jo M. Broden  
Fourth District

The proposed ordinance will have first reading by the Common Council on August 14, 2017.

David Varner  
Fifth District

Thank you for your consideration.

Oliver Davis  
Sixth District

Sincerely Yours,

Gavin Ferlic  
At Large

John Voorde  
At Large

Regina Williams-Preston  
South Bend Common Council Member

Karen White  
At Large



BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING A SECTION OF CHAPTER 2, ARTICLE 6 OF THE SOUTH BEND MUNICIPAL CODE PERTAINING TO TAX ABATEMENTS**

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**STATEMENT OF PURPOSE AND INTENT**

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The Mayor of South Bend has stated that "Raising the minimum wage of our city employees can increase morale and productivity, while cutting turnover. It's also good economics, since city workers are consumers at local businesses. . . Most importantly, it's the right thing to do for hardworking public servants." The Mayor noted that this wage applies to all City employees, part-time, temporary, and seasonal, as well as full-time employees. Since a tax abatement is a subsidy to employers from the City and is intended to improve the economic environment of the City of South Bend, it is incumbent upon companies receiving tax abatements from the City to pay their employees at least as well as the City pays its employees.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, as follows:

**SECTION I.** Chapter 2, Article 6, Section 2-76.3 is hereby amended by adding paragraph (6), to read as follows:

**Sec. 2-76.3. Base abatement.**

A base abatement ("base abatement") is an abatement for three (3) years in the case of real property other than single-family residential, five (5) years in the case of real property that is single-family residential, and five (5) years in the case of personal property. The Council may grant a base abatement to an applicant who fulfills the following requirements:

.....

(6) The applicant must pay all company employees (full-time, part-time, seasonal, and temporary) a minimum wage at least as high as the minimum wage paid to all employees of the City of South Bend.

**SECTION II.** This Ordinance shall take effect upon passage by this Common Council, approval by the Mayor, and any publication required by law.

PASSED AND ADOPTED by the Common Council of the City of South Bend, Indiana  
this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Member, Common Council of the  
City of South Bend

ATTEST:

\_\_\_\_\_  
Kareemah Fowler, Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City for  
his approval on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, at \_\_\_\_\_ o'clock \_\_\_\_\_.m.

\_\_\_\_\_  
Kareemah Fowler, Clerk

Having examined the foregoing Ordinance, I do now, as the Mayor of the City of South Bend,  
approve said Ordinance and return the same to the Clerk of the City of South Bend this \_\_\_\_\_  
day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Pete Buttigieg, Mayor





# City of South Bend Common Council

441 County-City Building • 227 W. Jefferson Blvd  
South Bend, Indiana 46601-1830

(574) 235-9321  
Fax (574) 235-9173  
TDD: (574) 235-5567  
<http://www.southbend.in.gov>

Tim Scott  
President

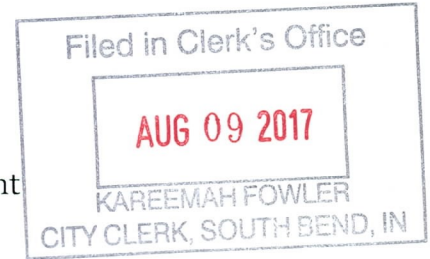
August 9, 2017

Oliver Davis  
Vice-President

South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601

Gavin Ferlic  
Chairperson, Committee  
of the Whole

Re: Proposed Scrap Metal Ordinance Amendment



Tim Scott  
First District

Dear Council Members:

Regina Williams Preston  
Second District

We are filing the attached proposed scrap metal ordinance amendment with the Office of the City Clerk. The proposed amendment eliminates the prohibition of Sunday business hours for scrap metal dealers, junk dealers, valuable metal dealers and recycling operations thereby permitting such business on Sundays.

Randy Kelly  
Third District

The proposed amendment also updates the ordinance to correct outdated statutory references and to make the ordinance comply with current state definitional statutes. The proposed ordinance amendment will have first reading by the Common Council of August 14, 2017.

Jo M. Broden  
Fourth District

Thank you for your consideration.

David Varner  
Fifth District

Oliver Davis  
Sixth District

Gavin Ferlic  
At Large

Sincerely Yours,

John Voorde  
At Large

Karen White  
At Large

Oliver Davis, Jr. and John Voorde  
South Bend Common Council Members



BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE COMMON COUNCIL OF SOUTH BEND, INDIANA, AMENDING SECTION 4-51 OF CHAPTER 4, ARTICLE 4 OF THE SOUTH BEND MUNICIPAL CODE PERTAINING TO LICENSING AND REGULATION OF SCRAP METAL, JUNK DEALERS, VALUABLE METAL DEALERS AND RECYCLING OPERATIONS**

**STATEMENT OF PURPOSE AND INTENT**

The City of South Bend’s regulation of the City’s Scrap Metal Dealers, Junk Dealers, Valuable Metal Dealers and Recycling Operations does not reflect the current community business standards relating to the permitted business hours of these businesses. Most businesses, unless prohibited by state statute are permitted to operate on Sundays. This amendment is intended to eliminate the prohibition of Sunday business hours for these businesses. The amendment is also intended to update the state statutory references to comply with current statutes now in effect.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, as follows:

Section I. Chapter 4, Article 4, Section 4-51 is hereby amended to read as follows:

Sec. 4-51. - Scrap metal dealers, junk dealers, valuable metal dealers and recycling operations.

(a) *Definitions.* As used in this section:

- (1) *Business records* mean the records of any purchase, trade, barter or other transaction that involves the receipt of scrap metal and/or valuable metals which are required as part of the licensing procedures addressed herein, but do not include correspondence, tax returns or financial statements.
- (2) *Ferrous metals* mean those metals which will attract a magnet.
- (3) *Junk dealer means* any person who keeps or maintains a yard, covered or uncovered, space or place, within the City for the purpose of, and engaging in the business of, buying or selling, exchanging or storing of old or used materials, bottles, glassware, paper, bagging, rags or rope, or any other type of material commonly referred to as "junk."
- (4) *Nonferrous metals* mean those metals which will not normally attract a magnet, including copper, brass and aluminum.
- (5) *Purchase* means acquiring an item of value where consideration is to be paid.

- (6) *Purchase of valuable metal* means acquiring a valuable metal product or products by a valuable metal dealer in a single transaction of less than one hundred dollars (\$100.00), but does not include purchases between scrap metal processing facilities which are defined in IC 8-12-1-3(d).
- (7) *Recycling operators* means any person who keeps or maintains a yard, covered or uncovered, space or place, within the City for the purpose of, and engaging in the business of, buying or selling, exchanging or storing of old or used materials, junk, scrap metals, or scrap materials.
- (8) *Scrap metal dealer* means any person who keeps and maintains a yard, covered or uncovered, space or place, within the City for the purpose of, and engaging in the business of, buying or selling, exchanging or storing of old or used metals, tinware, brass, copper, iron, lumber, old automobiles, or any other such type of material commonly called and referred to as "scrap metals."
- (9) *Scrap metals* include insulated and uninsulated metallic cables.
- (10) *Scrap or junk materials* means any used metal, both ferrous and nonferrous, lumber, old automobiles, bottles, old glassware, old tinware, paper, rags, iron, lumber or any other such materials commonly called and referred to as "scrap or junk materials"; with aluminum beverage cans or tin cans being excluded.
- (11) *Scrap or junkyard* means any yard, area, space or place, either covered or uncovered, enclosed or unenclosed, maintained and actually used for the purpose of the accumulation or the buying or selling, storing or exchanging of any such scrap metals, junk or scrap materials.
- (12) *Transfer station* means a place or location where scrap metals, junk, trash or garbage or scrap materials are deposited and then transferred in larger quantities by a different carrier, which are governed by extensive state and federal regulations and further regulated by the Indiana Department of Environmental Management (IDEM), the Solid Waste Management Board and the Environmental Protection Agency (EPA) and exempt from the provisions of this Section.
- (13) *Valuable metal* means any product made of metal that readily may be resold. The term:
- (1) includes metal bossies and small component motor vehicle parts; and
  - (2) does not include the following:
    - (A) A beverage can.
    - (B) Used jewelry regulated under IC 24-4-13.
    - (C) Precious metal regulated under IC 24-4-19.
- (14) *Valuable metal dealer* means any individual, firm, corporation, limited liability company, or partnership engaged in the business of purchasing and reselling valuable metal either at a permanently established place of business or in connection with a business of an itinerant nature, including junk shops, junk yards, junk stores, auto wreckers, scrap metal dealers or processors, salvage yards, collectors of or dealers in junk, and junk carts or trucks. The term includes a core buyer. The term does not include a person who purchases a vehicle and obtains title to the vehicle.
- (b) *Rule-making authority of Board of Public Works.* The Board of Public Works may have the authority to adopt rules and regulations related to the monitoring and enforcement of this Section, pursuant to the following procedure:
- (1) The Board shall give at least two (2) weeks' written notice of the meeting date, time and location at which any rules or regulations may be considered for adoption. Said notice shall be sent to the City Clerk, Common Council Members, Fire Prevention Bureau, and the Neighborhood Code Enforcement Office; and such notice must be conspicuously posted on the City's website.
  - (2) The Board shall enclose a verbatim copy of all proposed rules and regulations with each notice sent pursuant to this subsection; and must conspicuously post such proposed rules and regulations verbatim on the City's website.



- (3) No rule or regulation shall be adopted which would in effect amend the procedures included in Section 4-51 of this Code; nor shall the Board adopt any rule or regulation which broadens the intent of that section.
  - (4) Upon the adoption of any rule or regulation, the Clerk of the Board of Public Works shall send a copy of the same to the City Clerk, Common Council Members, Fire Prevention Bureau, and the Neighborhood Code Enforcement Office; with this taking place within twenty-four (24) hours after the Board's action. The Clerk of the Board of Public Works shall also be required to post such rules or regulations on the City's website within twenty-four (24) hours after the Board's action. Rules and/or regulations which are not in compliance with this subsection shall be null and void.
- (c) *Resolution required.* No person shall engage in the scrap or junk material business or hold himself forth as a dealer in scrap materials or scrap metals, or as a valuable metal dealer, or keep or maintain a scrap or junkyard, or recycling operation within the City without first procuring from the Common Council, a resolution approving the issuance of a license for the conduct of such business and the maintenance and operation of such metal yard, junkyard or recycling operation.
- (d) *Application; zoning restrictions.*
- (1) An application for a license under this section shall be filed with the Office of the City Clerk and it shall be accompanied by a drawing or diagram showing the property lines of the proposed scrap or junkyard, or recycling operation. Filing of this application with the Office of the City Clerk shall satisfy the requirements of Section 4-6 of this Chapter.
  - (2) No license shall be issued to any proposed scrap or junkyard, recycling operation or transfer station for a location within one thousand (1,000) feet of any lot being lawfully used, entirely or in part, as a single-family, two-family or multifamily dwelling, or any of the following zoning use districts as defined by the zoning chapter of this Code:
    - a. SF1 Single-Family and Two-Family District
    - b. SF2 Single-Family and Two-Family District
    - c. MF1 Urban Corridor Multifamily District
    - d. MF2 High-Density Multifamily District
    - e. OB Office Buffer District
    - f. MU Mixed Use District
    - g. "O" Office District
    - h. LB Local Business District
    - i. CB Community Business District
    - j. CBD Central Business District
    - k. GB General Business District

unless such footage requirement is waived by specific resolution of the Common Council. Such resolution must incorporate one of the following considerations for such a waiver: that the majority of the business operation would take place within an enclosed structure, that the business would be located beyond one-half ( $\frac{1}{2}$ ) of the footage requirement or that a majority of the owners affected by the new business which are within the one thousand-foot requirement give approval.
  - (3) The foregoing subsection (2) shall not apply to any scrap or junkyard licensed as of the effective date of this section. If the license for the scrap or junkyard lapses for any period of time, is revoked or is not renewed for any reason, then the provisions of the foregoing subsection (2) shall apply to the scrap or junkyard.
- (e) *Approvals required.*

- (1) Upon receipt of an application for the issuance of a license for the maintenance and operation of a scrap or junkyard, or recycling operation at a location not previously licensed, the Office of the City Clerk shall upon receipt, date-stamp the application and immediately submit the application to the Fire Prevention Bureau and the Department of Code Enforcement for their inspections; and also provide notice of the filing of said application via email to the Department of Administration and Finance and the Common Council. The Bureau and Department of Code Enforcement shall cause the premises where such proposed scrap or junkyard, or recycling operation is to be located to be visited and inspected for the purpose of determining whether such premises are fit and proper for the maintenance and operation of such a business. All inspections must be completed by the Code Enforcement and the Fire Department's Fire Prevention Bureau within ten (10) business days of the receipt of an application by the City.
- (2) The application shall also be referred to the South Bend Police Department for review and recommendation. The Police Department shall conduct an investigation of each applicant and make a recommendation as to whether the application should be granted. In making its recommendation, the Police Department shall consider the criminal history of the applicant, if any, and the likelihood that granting the application will endanger the health, safety or welfare of the public. A report of the investigation and a copy of the traffic and police record of the applicant, if any, and the recommendation of the Police Department shall be attached to the application and forwarded to the Office of the City Clerk.
- (3) The Office of the City Clerk shall forward to the Common Council President with a copy to the City Controller, the recommendation of the Police Department, and all information provided with or in support of the application in determining whether the application should be granted. Upon receipt of the application and comments or recommendations of the South Bend Departments of Police, Fire and Code Enforcement, the Common Council by resolution shall approve or disapprove such application at its next regular meeting.

In the event that an applicant does not meet current Code requirements as evidenced in writing through the City Administration's inspection process, the Office of the City Clerk may recommend an interim license for such an applicant, with notice being given to the City Controller and the Common Council. The Controller may issue the interim license upon the Clerk's recommendation. Interim licenses shall expire within sixty (60) days, unless the applicant can prove to the Office of the City Clerk that there are extenuating circumstances requiring an extension, which shall require notice to the City Clerk and Council of the date of expiration.

(f) *License procedure; posting of license required.*

- (1) In determining whether to approve and adopt a resolution to issue a permit under this section, the Common Council shall consider the effect or appropriateness of a scrap or junkyard upon the surrounding area, as well as any comments or recommendations provided by the Fire Prevention Bureau, the Department of Code Enforcement or the Board of Public Works. No license application shall be approved without the written approval endorsed upon the application by the Fire Prevention Bureau and Department of Code Enforcement.
- (2) Upon final approval of the application by the Common Council, the Office of the City Controller shall issue or renew the license for maintenance and operation of a scrap or junkyard, or recycling operation. All licenses issued by the Office of the City Controller shall be conspicuously displayed by the applicant by the check-out area of their business. If such application is disapproved by the Fire Prevention Bureau, the Department of Code Enforcement, the Board of Public Works, or the Common Council, the license shall not be issued. The issuance of all licenses under this section shall be subject to compliance with all applicable rules and regulations.
- (3) Any applicant may appeal a denial of a license pursuant to the procedures set forth in Section 4-16 of this chapter.

(g) *License fee.*

- (1) The fee for an annual license to operate a scrap or junkyard, or recycling operation shall be, two hundred fifty dollars (\$250.00) payable to the Office of the City Controller at the time of the issuance of such license.
  - (2) The fee for an interim license to operate a scrap or junkyard, or recycling operation shall be seventy-five dollars (\$75.00).
  - (3) The fee for each sixty-day extension of an interim license to operate a scrap or junkyard, or recycling operation shall be fifty dollars (\$50.00).
- (h) *Business hours.* No person licensed under this section shall receive or purchase any property whatever from any person between the hours of 8:00 p.m. and 7:00 a.m., or on legal holidays.
- (i) *Purchases from and sales by minors.*
- (1) No person licensed under this article shall receive or purchase any property whatever from a minor at any time, except rags, paper and/or aluminum beverage cans or tin cans.
  - (2) No minor shall sell or offer for sale to any person having a license as a junk dealer any of the articles mentioned in this article as coming under the term "junk," except the sale of rags, paper, and/or aluminum beverage cans or tin cans as provided in subsection (i)(1).
- (j) *Business records of purchases required; information required; notice to law enforcement agencies; exceptions for aluminum beverage cans and/or tin cans.*
- (1) Every dealer or operator required to be licensed under this section shall keep at his place of business a record of all purchases in accordance with accepted accounting practices. Each dealer or operator shall maintain at the place of business a bound book with consecutively numbered pages, in which the dealer or operator shall enter or cause to be entered in writing using permanent ink.
  - (2) Every transaction involving ferrous or nonferrous metal where a single transaction involves less than one hundred dollars (\$100.00), but does not include purchases between scrap metal processing facilities which are defined in IC 8-23-1-36 shall require the following to be obtained from each person involved in bringing such terms for the transaction on a form signed under pains and penalties of perjury. Said form shall be provided by the Department of Administration and Finance to all dealers or operators licensed under this section. All such dealers or operators shall retain completed forms for a period of two (2) years. The following information shall be entered on the forms:
    - a. Date, time of purchase and street address where the ferrous and/or nonferrous metal was located prior to being brought to the licensed business for remuneration;
    - b. Name, address, telephone (landline and cell, if any) of the individual or individuals from whom the scrap metal and/or valuable metal was purchased;
    - c. Copy of individual(s) driver's license or other government issued identification card which has a picture of the individual or individuals from whom the scrap metal and/or valuable metal was purchased;
    - d. Thumbprint impressions from the individual or from whom the scrap metal and/or valuable metal was purchased;
    - e. Motor vehicle license number of the vehicle or conveyance on which the scrap metal and/or valuable metal was delivered and the year, make and model thereof;
    - f. The price paid for the scrap metal and/or valuable metal;
    - g. A description and weight of the scrap metal and/or valuable metal purchased;
    - h. In the alternative, the dealer or operator may maintain the information required by this subsection in a computer program compatible with a program maintained by the South Bend Police Department or pre-approved by the South Bend Police Department. All business records shall be required to be retained for a period of two (2) years.

- (3) *Exceptions for aluminum beverage cans and/or tin cans.* Dealers or operators shall not be required to maintain records for aluminum beverage cans and/or tin cans, nor shall such items be required to be held for seven (7) or three (3) days under subsection (k)(3).
  - (4) *Exceptions for scraping of motor vehicles.* Any municipality who brings in a motor vehicle(s) for scraping shall be exempt from the completion of the form addressed in this section with such municipality complying with all applicable provisions of IC 9-22-1 and other applicable State and/or Federal law requirements.
- (k) *Electronic Report to Police and Records Required for Inspection and Holding Requirements for Scrap Metal and/or Valuable Metals; Ferrous and/or Nonferrous Metal.* <sup>15</sup>

- (1) Every dealer or operator shall maintain a physical sales report of scrap metal and/or valuable metals. Each dealer or operator shall keep and preserve data on or through an electronic or computer data system database on a daily basis for the preceding twenty-four-hour period of all purchases of any scrap metal and valuable metal items, unless exempted by this section. Such information shall be sent via electronic forms of transmission to the South Bend Police Department using the Records Management System being used by the South Bend Police Department for the preceding twenty-four-hour period on a daily basis. The data shall include the time of purchase of any article of any scrap metal and/or valuable metals and include whether any is marked with a serial number or marked with an owner's engraving or mark. The reports must contain the seller's full legal name, physical address, date of birth, gender, race, height and width, the price paid for each item, the purchase date and time, a description of each article purchased, including identifying marks, engravings, the manufacturer of the item, model number of the item, the serial number of the item, and the seller's driver's license number or the number of any other identification issued by a governmental authority bearing the sellers' photograph with the dealer or operator being required to make a photocopy of the photographic identification presented at the time of transaction. Every dealer or operator is further required to record the motor vehicle license number of the vehicle of conveyance that delivered the valuable metal, the address from where the valuable metal was located before being brought to the dealer or operator, and a photograph of the valuable metal being sold, as well as a photograph of the person from whom the valuable metal is being purchased. The form shall also bear a digital photograph of the items being purchased and a clear, inked, or digital, impression of the seller's right thumb print and the same transaction number as recorded in the dealer's record book as required by paragraph (2) below.

If the right thumb is missing any of the customers' fingerprints may be used with an identification of what finger is used in the right thumb's absence written adjacent to the inked or digital fingerprint on the form. The inked or digital fingerprint shall be made in a manner readable by the Police Department and shall not be blurred or obliterated.

- (2) Any dealer or operator who is required to be licensed under this section and who has a record with the City of having violated any of the provisions of this section within the past calendar year, shall be required to place a hold on all ferrous and/or nonferrous metal purchased for a minimum period of five (5) business days after notification to the local law enforcement agency required by subsection (1) above, with any additional holding period required for enforcement and investigative purposes being determined on a case by case basis by the South Bend Police Department. The license issued under this section shall specify the amount of time the items are to be held.
  - (3) The dealer or operator shall also record the seller's physical description and a description of the property purchased, as required by this section, and shall retain the physical sales report and information for three (3) years from the date of the last purchase recorded therein.
  - (4) Any records required to be kept or maintained under this section shall be available at all times for inspection by the Police Chief or person duly authorized by him or her to inspect the records.
- (l) *Operation and maintenance rules and regulations.*

- (1) All scrap and junkyards, and recycling operations, shall be maintained and operated in compliance with all applicable fire, health and public safety laws of the State and the provisions of this Code and other ordinances of the City.
- (2) The operators of such yards shall conform with the following rules and regulations:
  - a. Minimum lot area for new yards: All new scrap and junkyards, and recycling operations shall have a minimum lot area of five (5) acres and shall be zoned GI General Industrial District pursuant to the zoning provisions of this Code.
  - b. Fencing: There shall be two (2) types of fencing required to enclose all scrap and junkyards, and recycling operations:
    1. Type A fencing shall consist of fireproof material and shall be a minimum of six (6) feet in height, and constructed so that it can retain all scrap and junk materials within such yards. This fencing shall be of uniform material and color and shall be kept in good repair at all times. Type A fencing shall be used except when Type B fencing is specifically required.
    2. Type B fencing shall consist of opaque or solid fireproof material, and shall be a minimum of eight (8) feet in height. It shall be erected along or near the outside edges of the scrap or junkyard, or recycling operation, and shall completely surround the scrap or junk materials to be stored on the premises. Such fencing shall be of uniform material and color, and shall be kept in good repair at all times. Provided, that any Type B fencing which shall be erected, as required by this section, shall be a minimum of eight (8) feet in height. All new businesses or existing businesses which expand or replace Type B fencing in its entirety after October 1, 1990, shall have opaque fencing which, for purposes of this section, shall mean a barrier of solid material such as wood, metal, or similar material whereby one cannot see through such opaque fence, thereby screening the operation from public view. A chain link fence of said height with metal, wood, or other opaque material through it which entirely blocks the view of the operation is an example of the minimum required opaque fence, as used in this section.
  - c. Buffer strip: All new businesses or existing businesses which expand after July 1, 1980, shall have a buffer planting strip of at least fifteen (15) feet in depth and shall be provided and maintained between the property lines and Type B fencing which abuts public streets, highways and alleys. Such buffer planting strip shall include a compact hedge, row of shrubbery or row of evergreen trees and the property lines shall be planted in grass, other suitable ground cover and/or shrubbery, maintained in good condition, and kept free of litter. Said area may also include pedestrian walkways, driveways, flagpoles and off-street parking subject to the off-street parking regulations of this Code. Any existing scrap or junkyards may provide and maintain a buffer strip as described in this section.
  - d. Storage location restrictions: No scrap or junk materials shall be placed or stored outside of the fencing required by this section. Such junk or scrap stored in such yard, if combustible or inflammable, shall not be stored closer than three (3) feet to such fence enclosing such yard.
  - e. Maintenance of premises: The operators of such businesses shall:
    1. Remove therefrom all combustible materials and all inflammable rubbish, leaves, grass, dead trees, brush and other materials not being stored thereon as a part of the business conducted thereon.
    2. Keep storerooms and garages free from rubbish, waste materials and old rags and paper not being stored thereon as a part of the business conducted thereon.
    3. Keep all oil, gasoline, oily waste and other greasy material in metal waste cans.
    4. Install and keep available fire extinguishers in close proximity to areas within such scrap or junkyards, and recycling operations wherein trash, metal or other waste materials

may be burned, and keep and maintain therein an unobstructed fire truck lane of at least ten (10) feet in width into such yard from the main entrance thereof.

5. Cause such scrap or junkyard, and recycling operations to be checked and serviced at reasonable intervals for the effective extermination of rodents in accordance with Health Department standards.
  6. Papers, rags and other loose scrap and junk material shall be handled, stored and maintained in such a way as to prevent the same from being loose in such junk or scrap yard, and recycling operations.
- f. Compliance with all noise regulations: Compliance with all stationary noise regulations set forth in Section 13-82 of the South Bend Municipal Code addressing loud and unreasonable noise.
- (m) *Semi-annual inspection by Fire Prevention Bureau.* The Fire Prevention Bureau shall inspect each junk or scrap yard, and recycling operations once every six (6) months for the purpose of determining whether or not the owner or operator is in compliance with this Code, and report such findings to the Department of Administration and Finance and the Office of the City Clerk.
- (n) *Applications to be filed.* All persons required to be licensed under this section must file an application or renewal application with the Office of the City Clerk. Any specific requirements of the rules and regulations herein which cannot be met by the applicant due to unusual hardship, such as adverse weather conditions, may be granted a thirty-day grace period to complete such requirement(s), however such applicant shall be subject to complying with the interim licensing provisions during such period of time. Such additional time shall be upon proper resolution being petitioned for before the City Clerk's Office setting forth in detail the reasons needed for the additional time. The City Clerk's Office shall notify promptly the Department of Administration and Finance of any such resolution being filed along with a recommendation about granting such interim license. In no event shall more than two (2), sixty-day interim license extensions be granted by the City Controller to any applicant in one (1) licensing year.
- (o) *Penalty.* Any violation of the provisions of this section shall be deemed an offense and, upon conviction, the offender shall be fined not less than two hundred dollars (\$200.00), nor more than two thousand five hundred dollars (\$2,500.00). Each violation shall constitute a separate offense and be punishable as such. The imposition of a fine shall be in addition to the exercise by the Department of Administration and Finance or the City of any other right or remedy available in law or equity to address such violation(s).
- (p) *License denial and/or revocation.* Suspension or revocation of any license issued under this section shall be governed by the provisions set forth in Section 4-16 of the South Bend Municipal Code.
- (q) *Video surveillance.* Effective September 1, 2006, all businesses required to be licensed under this section shall be required to have a video surveillance system monitoring all business transactions which records on video tape when a person tenders his or her signed and verified completed form required by subsection (j)(2) herein, receives remuneration for items regulated under this section, and videos the vehicle in which the scrap metal/valuable metal was delivered to the dealer. Video cameras shall date and time-stamp the video tape. Such tapes shall be retained for thirty (30) days from the date of transaction. Such video surveillance systems shall be operable during all regular business hours when the dealer is accepting valuable metals and/or scrap metals for purchase and shall be available for any member of the South Bend Police Department to review during the hours of ordinary business. Violation of this subsection shall be considered a separate offense.
- (r) *Providing of false information.* If a person or persons who apply for a license under this section provides false information, such action shall be considered a violation of this section. Such action shall be grounds for suspension, revocation or a denial of a license, in addition to being considered a separate offense for which a citation may be issued.

SECTION II. This Ordinance shall take effect upon passage by this Common Council, approval by the Mayor, and any publication required by law.

PASSED AND ADOPTED by the Common Council of the City of South Bend, Indiana this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Member, Common Council of the City of South Bend

ATTEST:

\_\_\_\_\_  
Kareemah Fowler, Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City for his approval on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, at \_\_\_\_\_ o'clock \_\_\_\_\_.m.

\_\_\_\_\_  
Kareemah Fowler, Clerk

Having examined the foregoing Ordinance, I do now, as the Mayor of the City of South Bend, approve said Ordinance and return the same to the Clerk of the City of South Bend this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Pete Buttigieg, Mayor

(Ord. No. 8998-81, § 1; Ord. No. 7027-82, § 1; Ord. No. 7182-83, § 1; Ord. No. 7723-86, § 2; Ord. No. 8117-90, §§ 1, 2; Ord. No. 8813-97, § I, 7-28-97; Ord. No. 9093-00, § XVIII; Ord. No. 9673-06, § I, 4-27-06; Ord. No. 9888-08, §§ I—IV, 12-8-08; Ord. No. 10287-14, § II, 2-10-14)

Footnotes:

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**State Law reference**— IC 25-37.5 sets forth the State of Indiana's regulations addressing "Dealers in Valuable Metals" which includes provisions updated by the passage of Public Law 224-2013. Local regulations are supplemental to the state law provisions.



## NOTICE OF ADMINISTRATIVE APPEAL

Eric A. Boyd 1240 W. Thomas St. South Bend, IN (Indiana Historical Landmark

### *Brief Summery of Events*

- 1.) Owner Applied for a roof permit from the Building Dept. and submitted Blue Prints with elevations.
- 2.) St. Joseph County Building Dept. accepted on behalf of HPC & issued roof Permit BD 15005044
- 3.) Owner installed Roof under the direction of the Building Dept.
- 4.) HPC complained about the roof and Building Dept's actions.
- 5.) Owner was forced to file additional (HPC) COA's with suggestions of financial assistance that not materialized in over three years causing a hardship for the business owner.
- 6.) Owner's Structural Engineer Report disputes the findings of the HPC/Building dept.
- 7.) HPC's Alternates/solutions are not consistence with the practices under Ord.9495-04
- 8.) HPC by way of the Building Dept has recently attempted to impose fines for structures that they permitted to be built.
- 9.) HPC's failed to follow administrative policies and procedures and produced misleading information.

Owner is requesting relief from this HPC denial. Current denial imposes additional hardships, abuse of discretion based on HPC's failure to fulfill ordnance obligations as an administrative body.

Respectfully Submitted:

  
Eric A. Boyd

*July 18, 2017*  
Date

