



OFFICE OF THE CITY CLERK
KAREEMAH FOWLER, CITY CLERK

MEMORANDUM

TO: MEMBERS OF THE COMMON COUNCIL
FROM: KAREEMAH FOWLER, CITY CLERK
DATE: JULY 18, 2019
SUBJECT: COMMITTEE MEETING NOTICE

The following Common Council Committee Meetings have been scheduled for **Monday, July 22, 2019:**

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

- 3:30 P.M.** **PERSONNEL & FINANCE** **CHAIRPERSON, WHITE**
 1. [Bill No. 20-19](#)- Supplemental Bond Ordinance
 2. [Bill No. 23-19](#)- Additional Appropriation Ordinance
- 3:45 P.M.** **HEALTH & PUBLIC SAFETY** **CHAIRPERSON, BRODEN**
 1. *Substitute* [Bill No. 21-19](#)- Ordinance to Amend Chapter 5, Various Articles: Responsible Animal and Pet Ownership Care and Control Regulations
- 4:20 P.M.** **UTILITIES** **CHAIRPERSON, TESHKA**
 1. **Update:** Utilities Customer Assistance Program-Kara Boyles, City Engineer- Engineering Department
- 4:50 P.M.** **COMMUNITY RELATIONS** **CHAIRPERSON, PRESTON**
 1. **Update:** Proposal -Discussion of Restorative Justice Initiative
- 5:05 P.M.** **ZONING & ANNEXATION** **CHAIRPERSON, DAVIS**
 1. **Update:** Zoning Ordinance- Tim Corcoran, Director of Planning- Community Investment
 2. *3rd Substitute* [Bill No. 15-19](#)- CBD Zoning Ordinance Amendment

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

- INFORMAL MEETING OF THE COMMON COUNCIL** **PRESIDENT, T. SCOTT**
 1. Discussion of Council Agenda
 2. Update and Announcements
 3. Adjournment

cc: Mayor Pete Buttigieg
Committee Meeting List
Media

INTEGRITY| SERVICE| ACCESSIBILITY

JENNIFER M. COFFMAN
CHIEF DEPUTY/DIRECTOR OF OPERATIONS

BIANCA L. TIRADO
DEPUTY/DIRECTOR OF POLICY

JOSEPH R. MOLNAR
ORDINANCE VIOLATION CLERK

EXCELLENCE | ACCOUNTABILITY | INNOVATION | INCLUSION | EMPOWERMENT



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



SOUTH BEND COMMON COUNCIL

MEETING AGENDA

Monday, July 22, 2019

7:00 P.M.

1. **INVOCATION- PASTOR LARRY CHRISMAN, FIRST UNITED METHODIST CHURCH**
2. **PLEDGE TO THE FLAG**
3. **ROLL CALL**
4. **REPORT FROM THE SUB-COMMITTEE ON MINUTES**
5. **SPECIAL BUSINESS**
6. **REPORTS FROM CITY OFFICES**
7. **COMMITTEE OF THE WHOLE** **TIME: _____**
BILL NO.

15-19 PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 21 OF THE SOUTH BEND MUNICIPAL CODE, ARTICLE 3 COMMERCIAL / MIXED USE DISTRICTS TO REPEAL AND REPLACE SECTION 21-03.06 CBD CENTRAL BUSINESS DISTRICT

20-19 PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, SUPPLEMENTING AND AMENDING ORDINANCE NO. 9937-09 FOR THE PURPOSE OF AUTHORIZING THE MODIFICATION OF CERTAIN CONTRACTUAL RIGHTS OF THE CITY, THE EXECUTION AND DELIVERY OF ITS AMENDED WATERWORKS REVENUE BONDS OF 2009, SERIES B, AND APPROVING CERTAIN RELATED MATTERS IN CONNECTION THEREWITH

21-19 PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING VARIOUS ARTICLES AND SECTIONS OF CHAPTER FIVE OF THE SOUTH BEND MUNICIPAL CODE, GENERALLY KNOWN AS THE RESPONSIBLE ANIMAL AND PET

OWNERSHIP CARE AND CONTROL REGULATIONS, BY UPDATING
ENTITY NAME DEFINITIONS AND MANAGER RESPONSIBILITIES

[23-19](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROPRIATING ADDITIONAL FUNDS FOR CERTAIN DEPARTMENTAL AND CITY SERVICES OPERATIONS IN 2019 OF \$500,000 FROM ECONOMIC DEVELOPMENT INCOME TAX (#408).

8. **BILLS ON THIRD READING**
BILL NO.

TIME: _____

[15-19](#) THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 21 OF THE SOUTH BEND MUNICIPAL CODE, ARTICLE 3 COMMERCIAL / MIXED USE DISTRICTS TO REPEAL AND REPLACE SECTION 21-03.06 CBD CENTRAL BUSINESS DISTRICT

[20-19](#) THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, SUPPLEMENTING AND AMENDING ORDINANCE NO. 9937-09 FOR THE PURPOSE OF AUTHORIZING THE MODIFICATION OF CERTAIN CONTRACTUAL RIGHTS OF THE CITY, THE EXECUTION AND DELIVERY OF ITS AMENDED WATERWORKS REVENUE BONDS OF 2009, SERIES B, AND APPROVING CERTAIN RELATED MATTERS IN CONNECTION THEREWITH

[21-19](#) THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING VARIOUS ARTICLES AND SECTIONS OF CHAPTER FIVE OF THE SOUTH BEND MUNICIPAL CODE, GENERALLY KNOWN AS THE RESPONSIBLE ANIMAL AND PET OWNERSHIP CARE AND CONTROL REGULATIONS, BY UPDATING ENTITY NAME DEFINITIONS AND MANAGER RESPONSIBILITIES

[23-19](#) THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROPRIATING ADDITIONAL FUNDS FOR CERTAIN DEPARTMENTAL AND CITY SERVICES OPERATIONS IN 2019 OF \$500,000 FROM ECONOMIC DEVELOPMENT INCOME TAX (#408).

9. **RESOLUTIONS**

10. **BILLS ON FIRST READING**
BILL NO.

[22-19](#) FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 6, ARTICLE 1, SECTION 6-4 OF THE SOUTH BEND MUNICIPAL CODE TO REQUIRE PAYMENT OF ALL PAST PERMIT AND INSPECTION FEES AND COMPLIANCE ALL APPLICABLE ZONING ORDINANCES PRIOR TO THE ISSUANCE OF A BUILDING PERMIT, EXCEPTING CERTAIN BUILDING PERMITS ISSUED IN ACCORDANCE WITH LAW PRIOR TO THE EFFECTIVE DATE OF THIS AMENDED ORDINANCE

[24-19](#) FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF SOUTH BEND, INDIANA, AMENDING THE SOUTH BEND MUNICIPAL CODE BY REPEALING CURRENT CHAPTER 20, ARTICLE 13 AND THE INCLUSION OF NEW CHAPTER 20, ARTICLE 13, ENTITLED “REGULATIONS ON THE USE OF HAND-HELD MOBILE OR WIRELESS TELEPHONES, ELECTRONIC COMMUNICATIONS DEVICES AND TELECOMMUNICATIONS DEVICES WHILE DRIVING”

[25-19](#) FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROPRIATING ADDITIONAL FUNDS FOR CERTAIN DEPARTMENTAL AND CITY SERVICES OPERATIONS IN 2019 OF \$180,070 FROM GENERAL FUND (#101)

11. UNFINISHED BUSINESS

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, 4th Floor County-City Building. Reasonable efforts have been taken to provide an accurate translation of the text of the agenda, however, the officiate 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.



2019 COMMON COUNCIL STANDING COMMITTEES (Rev. 01-10-19)

COMMUNITY INVESTMENT COMMITTEE

Oversees the various activities of the Department of Community Investment. This Committee reviews all real and personal tax abatement requests and works closely with the Business Development Team.

Gavin Ferlic, Chairperson

Regina Williams-Preston, Vice-Chairperson

Oliver J. Davis, Member

Sharon L. McBride, Member

COMMUNITY RELATIONS COMMITTEE

Oversees the various activities of the Engagement and Economic Empowerment, Neighborhood Development, and Community Resources Teams within the City's Department of CI and is charged with facilitating partnerships and ongoing communications with other public and private entities operating within the City.

Regina Williams-Preston, Chairperson

Gavin Ferlic, Vice-Chairperson

John Voorde, Member

Jo M. Broden, 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

Jake Teshka, Member

Gavin Ferlic, Member

Karen L. 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 M. Broden, Chairperson

Karen L. White, Vice-Chairperson

Oliver J. Davis, Member

John Voorde, Member

INFORMATION AND TECHNOLOGY COMMITTEE- Innovation

Oversees the various activities of the City's Department of Innovation, which includes the Divisions of Information Technology and 311 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 and access to GIS data and related technologies are just some of its many activities.

Tim Scott, Chairperson

Gavin Ferlic, Vice-Chairperson

Jake Teshka, Member

Sharon L. McBride, Member

PARC COMMITTEE- Venues Parks and Arts (Parks, Recreation, Cultural Arts & Entertainment)

Oversees the various activities of the Century Center, College Football Hall of Fame, Four Winds Stadium, Morris Performing Arts Center, Studebaker National Museum, South Bend Regional Museum of Art, Potawatomi Zoo, My SB Trails, DTSB relations, and the many recreational and leisure activities offered by the Department of Venues Parks and Arts.

Sharon L. McBride, Chairperson

Jake Teshka, Vice-Chairperson

Oliver J. Davis, Member

John Voorde, Member



2019 COMMON COUNCIL STANDING COMMITTEES (Rev. 01-10-19)

PERSONNEL AND FINANCE COMMITTEE

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

Karen L. White, Chairperson
John Voorde, Vice-Chairperson

Regina Williams-Preston, Member
Jo M. Broden, Member

PUBLIC WORKS AND PROPERTY VACATION COMMITTEE

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

John Voorde, Chairperson
Sharon L. McBride, Vice-Chairperson

Jo M. Broden, Member
Karen L. White, Member

RESIDENTIAL NEIGHBORHOODS COMMITTEE

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

Karen L. White, Chairperson
Jo M. Broden, Vice-Chairperson

Regina Williams-Preston, Member
Sharon L. McBride, 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.

Jake Teshka, Chairperson
Oliver J. Davis, Vice-Chairperson

Sharon L. McBride, 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 J. Davis, Chairperson
John Voorde, Vice-Chairperson

Gavin Ferlic, Member
Jo M. Broden, Member

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, Member
Jake Teshka, Member



2019 COMMON COUNCIL STANDING COMMITTEES (Rev.01-10-19)

TIM SCOTT, 1ST District Council Member

President

Information and Technology Committee, Chairperson

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

REGINA WILLIAMS-PRESTON 2nd District Council Member

Community Relations Committee, Chairperson

Community Investment Committee, Vice-Chairperson

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

SHARON L. MCBRIDE, 3rd District Council Member

PARC Committee, Chairperson

Public Works & Property Vacation, Vice-Chair

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

JO M. BRODEN, 4TH District Council Member

Health and Public Safety Committee, Chairperson

Residential Neighborhood Committee, Vice-Chairperson

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

JAKE TESHKA, 5TH District Council Member

Utilities Committee, Chairperson

PARC Committee, Vice-Chairperson

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

OLIVER J. DAVIS, 6TH 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

Community Investment Committee, Chairperson

Information & Technology Committee, Vice-Chairperson

Community Relations Committee, Vice-Chairperson

Council Rules Committee, Member
Zoning & Annexation Committee, Member

KAREN L. WHITE, AT LARGE Council Member

Vice-President

Residential Neighborhood Committee, Chairperson

Personnel & Finance Committee, Chairperson

Health & Public Safety Committee, Vice-Chairperson

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

JOHN VOORDE, AT LARGE Council Member

Chairperson, Committee of the Whole

Public Works & Property Vacation, Chairperson

Zoning & Annexation Committee, Vice-Chairperson

Personnel and Finance Committee, Vice-Chairperson

Community Relations Committee, Member
PARC Committee, Member
Health and Public Safety Committee, Member



LAWRENCE P. MAGLIOZZI
EXECUTIVE DIRECTOR

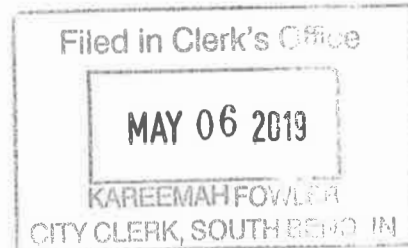
Angela M. Smith
Deputy Director

AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571

May 6, 2019

Honorable Common Council
4th Floor, County-City Building
South Bend, IN 46601



RE: CBD Zoning Ordinance Amendment
APC# 2898-19

Dear Council Members:

Enclosed is an Ordinance for the proposed Zoning Ordinance Amendment at the above referenced location. Please include the attached Ordinance on the Council agenda for first reading at your May 13th, 2019 Council meeting, and set it for public hearing at your June 24th, 2019 Council meeting. The petition is tentatively scheduled for public hearing at the June 18th, 2019 Area Plan Commission meeting. The recommendation of the Area Plan Commission will be forwarded to your office by noon on the day following the public hearing.

If you have any questions, please feel free to contact our office.

Sincerely,

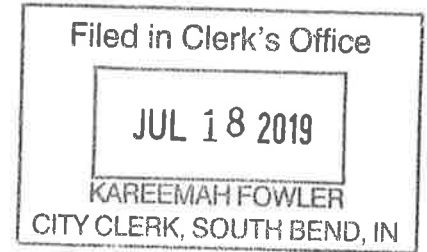
A handwritten signature in black ink, appearing to read 'Jordan Wyatt'.

Jordan Wyatt
Planner

CC: Bob Palmer

3RD STUBSTITUTE BILL NO. 15-19

ORDINANCE NO. _____



AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 21 OF THE SOUTH BEND MUNICIPAL CODE, ARTICLE 3 COMMERCIAL / MIXED USE DISTRICTS TO REPEAL AND REPLACE SECTION 21-03.06 CBD CENTRAL BUSINESS DISTRICT

STATEMENT OF PURPOSE AND INTENT

The Common Council of the City of South Bend, Indiana, adopted a new zoning ordinance that went into effect on May 7, 2004. Experience in using the Ordinance's provisions for the CBD Central Business District has shown that development in this district is unable to meet its full potential through efficient use of sites and the incorporation of high quality design that supports a vibrant public realm. This ordinance revises uses and development standards to better support the development of a mixed-use urban core having pedestrian-oriented design.

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of South Bend, Indiana as follows:

SECTION I. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 3 Commercial / Mixed Use Districts, Section 21-03.06 CBD Central Business District, is hereby deleted and replaced with a new Section 21-03.06 as follows:

Section 21-03.06 CBD Central Business District.

Intent – The CBD Central Business *District* is established to promote the development of the downtown region of the City of South Bend as a high intensity urban center for a multicounty region. The following are typical characteristics of the Central Business District: a mixture of mid-rise and high rise mixed-use developments, including a variety of compatible building types and urban uses; buildings with active building frontages set at or close to the sidewalk; and pedestrian-oriented scale with wide sidewalks, regularly spaced street trees, and amenities that create a walkable environment.

(a) *Permitted Uses.*

(1) *Primary Uses.*

- (A) Clothing Service: Including but not limited to: Costume Rental; Dressmaking; Dry Cleaning and Laundry Establishment; Millinery (Fabric) Shop; Self-service Laundry; Shoe Repair Shop; Tailor and Pressing Shop; Tuxedo Rental.

- (B) Educational Uses: Including but not limited to: *Child Care Center; Child Care Ministry; Cottage School; Public Library; School – Commercial, Trade or Business.*
- (C) Food Sales and Service: Including but not limited to: *Bakery – Retail; Bar *; Cabaret – 21 and Over *; Cabaret – Family; Convenience Store; Dairy Bar – Retail; Delicatessen; Farmers Market; Grocery; Ice Cream Store – Retail; Manufacturing Retailers; Nightclub *; Restaurant – Fast Food; Restaurant – Family; Restaurant – Family with Lounge; Tavern *; Yogurt Store – Retail.*
- (D) Governmental Use: Including but not limited to: *Governmental Offices; Post Office – without outdoor parking of delivery vehicles.*
- (E) Miscellaneous: Including but not limited to: *Bed & Breakfast; Bus, taxi, or limousine terminal, without repair; Clinic (medical, dental or optometrists); Conference Center; Cottage Business / Residential; Electrical / Electronics Repair; Hospital; Hotel; Laboratories; Mini (Self Storage) Warehouse, Internal Access; Print Shop; Publishing; Radio / TV Stations (provided any antenna shall comply with the regulations for Communication / Utilities); Video Production Studios.*
- (F) Office / Professional Services: Including but not limited to: *Architect; Artist; Bank Machines - Walk-up; Construction Companies (office only); Consultant; Contractors (office only); Dentist; Design Services; Engineer; Financial Institution; Insurance Agent; Lawyer; Musician; Physician; Pharmacist; Photographic Studio; Professional Offices; Real Estate Office; Travel Agency.*
- (G) Personal Service: Including but not limited to: *Barber Shop; Beauty Shop; Health Spa; Fitness Center.*
- (H) Public Facilities: Including but not limited to: *Community Center; Funeral Home; Mortuary; Museum; Public or Private Park – Active or Passive; Religious Use; Commercial Parking Lot; Parking Garage.*
- (I) Recreation: Including but not limited to: *Aerobics Studio; Amusement Arcade *; Banquet Hall; Billiard Hall *; Dance Studio; Public Dance Hall *; Social Hall; Theater – indoor.*
- (J) Residential – In CBD Districts Located West of the St. Joseph River: Including but not limited to: *Dwelling Units or Shared Housing – limited to (i) floors above the first floor or (ii) ground floor of the building if located behind another ground floor, non-residential permitted use; Convalescent Home; Nursing Home; Rest Home.*
- (K) Residential – In CBD Districts Located East of the St. Joseph River: Including but not limited to: *Multifamily dwellings; Dwelling Units –*

limited to floors above the first or ground floor of the *building*;
Convalescent Home; Nursing Home; Rest Home; *Shared Housing*.

(L) Retail: Including but not limited to: Antique Shop; Apparel Shop; Art Gallery; Arts and Craft Store; Bicycle Sales and Service; Camera Store; Card Shop; Clock Shop; Coin and Stamp Shop; Computer Store; Drug Store; Flower Shop; Frame Shop; Gift Shop; Hobby Shop; Toy or Game Shop; Jewelry Store; Liquor Store; Music Store; Newsdealer; Pawnshop *; Shoe Store; Stationery and Book Store; Tobacco Store; Video Store.

(M) Utilities: Including but not limited to: Roof-top Antenna.

* = *Controlled Use*. See Section 21-08.02 – Special Regulations for Controlled Uses for additional requirements.

(2) *Special Exception Uses*.

(A) Automotive Uses: Including but not limited to: Automobile Repair – major; Automobile Repair – minor; Automobile Parts Sales (new); Automobile Sales & Service; Automobile Quick Oil Change Facility; Gasoline Service Station with minor repair (not to exceed two (2) accessory indoor service bays); Gasoline Service Station without repair; Tire and Auto Service Center.

(B) Food Sales & Service: Including but not limited to: *Restaurant – Drive In*; *Restaurant – Drive Through*.

(C) Governmental Use: Including but not limited to: Post Office – with outdoor parking of delivery vehicles.

(D) Miscellaneous: Including but not limited to: Casinos, Approved Hotels and other areas where gambling games are conducted *; Off-Track Pari-mutuel Wagering Facility *.

(E) Office / Professional Services: Including but not limited to: Financial Institution with drive-up or drive-through facilities.

(F) Personal Service: Including but not limited to: Tattoo, Body Piercing, Scarifying and Branding Establishments *.

(G) Recreation: Including but not limited to: Stadium; Arena.

(H) Residential (in CBD Districts located west of the St. Joseph River): *Two Family Dwellings*; *Multifamily Dwellings*; *Group Residence*.

(I) Residential (in CBD Districts located east of the St. Joseph River): *Two Family Dwellings*; *Group Residence*.

- (J) Utilities: Including but not limited to: Electricity Relay Station; Public Utility Substation; Pumping Stations; Water Towers; Any Ground Mount Antenna Installation.

* = *Controlled Use*. See Section 21-08.02 – Special Regulations for Controlled Uses for additional requirements.

- (3) *Accessory Uses* – See Section 21-03.11 (a) – Accessory Uses, Buildings and Structures.
- (4) *Temporary Uses* – See Section 21-03.11 (b) – Temporary Uses, Buildings and Structures.
- (5) *Home Occupations* – See Section 21-03.11 (c) – Home Occupations.

(b) *Development Standards.*

- (1) *Minimum Project Width and Frontage* - each *project* shall have a minimum *lot width* and *frontage* on a *public street* of 20 feet.

- (2) *Yards and Building Setbacks*:

- (A) *Front* - a *front yard* and *building setback* measured from the greater of the *proposed right-of-way* or existing *right-of-way* shall be provided as follows:

	<u>Minimum</u>	<u>Maximum</u>
<i>Limited Access Highway</i> :	50'	NA
<i>All Other Streets</i> :	0'	10'

Provided, however, on all *streets* except *limited access highways*, *building* placement shall be in compliance with the following regulations:

- i. For sites containing one *building* – ~~in elevation plan view from the street frontage~~, at least eighty-five percent (85%) of the length of the front façade of the *building* facing a primary *street* in plan view shall be located at or between the *minimum setback* and the *maximum setback*, and at least fifty percent (50%) of the length of the façade of the *building* facing a secondary *street* shall be located at or between the *minimum setback* and the *maximum setback*;
- ii. For sites containing multiple *buildings* – ~~in elevation view from the street frontage~~, at least eighty-five percent (85%) of the visible façades of the *buildings* facing a primary *street* in plan view shall be located at or between the *minimum setback* and the *maximum setback*, and at least fifty percent (50%) of the

visible façades of the *buildings* facing a secondary *street* shall be located at or between the *minimum setback* and the *maximum setback*; and,

- iii. *Parking areas* and *interior access drives* shall not be located in front of a line five (5) feet behind the *front building line*. If the lot does not have a *building, parking areas* and *interior access drives* shall have a *minimum front setback* of ten (10) feet. If a *parking area* or *interior access drive* is located less than fifteen (15) feet from the *front lot line*, it shall be screened by a compact row of shrubs/hedge plants planted three feet on-center (3' o.c.) immediately behind the *front building line*. Shrubs shall be at least twenty-four inches (24") at time of planting.
- (B) *Minimum Side Yard and Setback* – Zero (0) feet, provided, however, if a *side yard* is provided along a *side lot line* not abutting an *alley*, such *setback* shall not be less than five (5) feet.
- (C) *Minimum Rear Yard and Setback* – The *minimum rear yard* and *setback* shall be as follows:
- i. *Minimum Rear Yard* - zero (0) feet, however, if a *rear yard* is provided along a *rear lot line* not abutting an *alley*, such *setback* shall not be less than five (5) feet.
 - ii. *Minimum Rear Residential Bufferyard* – twenty (20) feet when not separated from a ground-floor *residential use* by a *public alley*. If separated from a ground-floor *residential use* by a *public alley*, no *rear residential bufferyard* is required.
- (D) *Minimum Yard and Setback* from any *lot line* along and adjacent to the St. Joseph River or East Race – Fifteen (15) feet.
- (3) *Use of Minimum Yards and Residential Bufferyards.*

All *minimum yards* and *residential bufferyards*, when required, shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in Section 21-07.01 – Landscape Regulations of this Ordinance and shall remain free from *structures*, except where expressly permitted below:

- (A) *Minimum Front Yards* along limited access highways – may include: fences, retaining walls under 42", parking areas, loading areas, interior access drives, interior access driveways, or gasoline sales areas, provided that no portion of such area may be located closer to the right-of-way than fifteen (15) feet; or, signs as regulated by Section 21-07.03 – Sign Regulations of this Ordinance, and shall be otherwise maintained as open space free from *buildings* or *structures*;

- (B) Minimum *Rear Residential Bufferyards* – may include fences, retaining walls, *driveway* connections to adjoining *lots*, or *walkways* or other pedestrian way connections to adjoining *lots*, provided that the remainder of said *yards* shall otherwise be maintained as *open space* free from *buildings* or *structures*;
 - (C) Minimum *Yards* along the St. Joseph River and East Race – may include fences, retaining walls, *walkways* or other pedestrian way connections to adjoining *lots*; *plazas*; outdoor seating areas; stoops, *patios*, *porches*, and *decks* less than 30” above grade; or, signs as regulated by Section 21-07.03 – Sign Regulations of this Ordinance, and shall be otherwise maintained as open space free from *buildings* or *structures*.
- (4) *Building Height.*
- (A) CBD *Districts* Located West of the St. Joseph River:
 - i. Minimum Front Façade Height – in the elevation view from the *street frontage*, sixteen (16) feet.
 - ii. Maximum *Building Height* – the lesser of one-hundred and fifty (150) feet or twelve (12) stories.
 - (B) CBD *Districts* Located East of the East Race Waterway:
 - i. Minimum Front Façade Height – in the elevation view from the *street frontage*, sixteen (16) feet.
 - ii. Maximum *Building Height* – the lesser of sixty (60) feet or five (5) stories.
 - (C) CBD *Districts* located in the area bounded by the St. Joseph River and the East Race Waterway:
 - i. Minimum Front Façade Height – in the elevation view from the *street frontage*, sixteen (16) feet.
 - ii. Maximum *Building Height* – no greater than one hundred fifty (150) feet.
- (5) Landscaping – See Section 21-07.01 – Landscape Regulations.
- (6) Lighting – See Section 21-07.02 – Lighting Regulations.
- (7) *Signs* – See Section 21-07.03 – Sign Regulations.
- (8) Parking – See Section 21-07.04 – Off-Street Parking Regulations.

- (9) Loading – See Section 21-07.05 – Off-Street Loading Regulations.
- (10) *Greenway* Connection Required – If the *lot* abuts any portion of a *greenway*, a direct linkage from the *project* to such *greenway* shall be provided.
- (11) Outdoor Operations – All uses and operations (except *off-street parking*, *off-street loading* and delivery and walk-up customer service windows) shall be conducted completely within enclosed *buildings*, except where expressly permitted below:
- (A) Outdoor seating for restaurants, provided that such outdoor seating:
- i. shall not be located in any *street right-of-way* except as permitted by the Board of Public Works; and,
 - ii. shall not block an entrance or exit to or from the business or *building* or conflict with Americans with Disabilities Act standards.
- (B) *Outdoor display* or sales of merchandise:
- i. shall not be located in any *street right-of-way* except as permitted by the Board of Public Works;
 - ii. shall not block an entrance or exit to or from the business or *building* or conflict with Americans with Disabilities Act standards;
 - iii. shall not exceed ten percent (10%) of the *gross floor area* of each non-related and separately operated use;
 - iv. shall be permitted only during the hours of operation of the business and shall be removed at the close of each business day; and,
 - v. shall be merchandise normally found within the on-premise business.
- (C) Walk-up customer service windows or Automated Teller Machines (ATM's), provided that such facilities are not free-standing and are set flush with the façade of the *building*.

(12) Building Design and Orientation.

(A) Orientation.

- i. Primary *façades* shall be oriented to the *front lot line*. When on a *corner lot*, the primary *façade* shall be oriented to the primary *street*.
- ii. The primary *building* entrance shall be located on the *front façade*.

(B) Articulation and Activation.

- i. *Front façades* greater than fifty (50) feet in width shall provide articulation as follows:
 - a. Vertical articulation, such as bays, columns, pilasters, recessed entries, awnings, or other architectural treatments, is required to visually break up the massing of the *façade* into segments no greater than 25 feet in width.
 - b. Horizontal articulation, such as belt courses, cornice lines, entablatures, friezes, changes in materials or window patterns, recessed entries, awnings or canopies, or other architectural treatments, is required.
- ii. For commercial and mixed-use *buildings*, the minimum *front façade* surface that shall be glazed (window and door surface area) is as follows:
 - a. Ground floor *front façade* surface along a primary *street* – sixty (60) percent;
 - b. Ground floor *front façade* surface along a secondary *street* or civic space – forty (40) percent;
 - c. Upper floor *front façade* surface along a primary *street* – fifteen (15) percent.

The ground floor *front façade* glazing is calculated based on the total *façade* area between two (2) and eight (8) feet above the finished ground floor level. The upper floor *front façade* surface area is calculated based on the total *façade* area located between the surface of any floor to the surface of the floor above it or the elevation of the roof. Windows and doors shall have clear (untinted) glass and shall be open to the interior (not faux).

- iii. Except for civic buildings, the distance between building entries shall not exceed 100'.
- iv. A *walkway* shall connect from the *sidewalk* to the primary entrance.

(C) *Building Materials.*

- i. *Additions to Existing Buildings:* All additions to existing *buildings* shall utilize *building materials* that are compatible and harmonious with the materials used on the existing *building*.
- ii. *Exterior Renovations, Major Additions and Accessory Buildings:* Exterior renovations, major additions and *accessory buildings* to existing *buildings* or facilities are encouraged to comply with the provisions in sub-Section (iii), below, for new construction, however, the minimum requirement for exterior renovations, major additions and accessory buildings shall be the same as in sub-Section (i), above, for additions to existing *buildings*.
- iii. *New Construction:* In order to create variation and interest in the built environment, all new primary *buildings* shall comply with one (1) of the following two (2) sets of architectural regulations regarding *building material* and architectural features on each *front façade*:
 - a. All brick or stone (limestone, granite, etc.), excluding window, display window, door, roofing, fascia and soffit materials, provided that the brick or stone used on each applicable *façade* shall include at least two (2) architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.); or,
 - b. Two (2) or more *building materials* (excluding window, display window, door and roofing materials), provided:
 - 1. *Primary Building Material:* The primary *building material* shall be either: brick; stone (limestone, granite, etc.); synthetic equivalents of brick or stone; architectural pre-cast concrete, if the surface looks like brick or natural stone; traditional lime-based stucco; or fiber cement, and shall constitute a minimum of sixty-six (66) percent of each applicable *façade* excluding glazed surfaces. Exterior insulation and finish

system (E.I.F.S.) or equivalent; vinyl; or standard, fluted, or split face concrete masonry units (CMUs) are prohibited as a primary *building material*.

2. *Secondary Building Material*: The secondary *building material* shall constitute a minimum of ten (10) percent of the *façade* excluding glazed surfaces. Glass curtain wall may qualify as a secondary *building material*.

3. *Architectural Features*: In addition, the exterior *building material* selection shall be supplemented with the use of multiple colors or architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.) on each *front façade*.

iv. *Building materials* used on the *front façade* shall extend a minimum depth of sixteen (16) inches along the *side façade* as measured from the face of the *front façade*.

(2) Mechanical Equipment –HVAC equipment, except where such elements are enclosed, camouflaged, screened, obscured, or otherwise not readily visible from the public domain, are prohibited as part of a front façade or between the front façade and the front lot line.

SECTION II. 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:

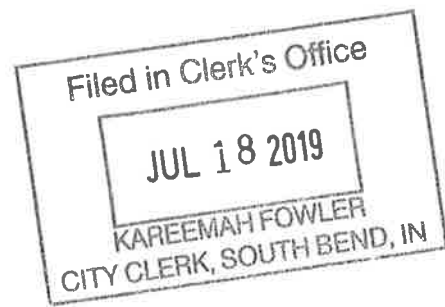
Kareemah N. Fowler, City Clerk
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 2019, at _____ o'clock ____ m.

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

Approved and signed by me on the _____ day of _____, 2019, at ____ o'clock
____.m.

Pete Buttigieg, Mayor
City of South Bend, Indiana



ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 21 OF THE SOUTH BEND MUNICIPAL CODE, ARTICLE 3 COMMERCIAL / MIXED USE DISTRICTS TO REPEAL AND REPLACE SECTION 21-03.06 CBD CENTRAL BUSINESS DISTRICT

STATEMENT OF PURPOSE AND INTENT

The Common Council of the City of South Bend, Indiana, adopted a new zoning ordinance that went into effect on May 7, 2004. Experience in using the Ordinance's provisions for the CBD Central Business District has shown that development in this district is unable to meet its full potential through efficient use of sites and the incorporation of high quality design that supports a vibrant public realm. This ordinance revises uses and development standards to better support the development of a mixed-use urban core having pedestrian-oriented design.

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of South Bend, Indiana as follows:

SECTION I. Chapter 21, Zoning, of the *South Bend Municipal Code*, Article 3 Commercial / Mixed Use Districts, Section 21-03.06 CBD Central Business District, is hereby deleted and replaced with a new Section 21-03.06 as follows:

Section 21-03.06 CBD Central Business District.

Intent – The CBD Central Business *District* is established to promote the development of the downtown region of the City of South Bend as a high intensity urban center for a multicounty region. The following are typical characteristics of the Central Business District: a mixture of mid-rise and high rise mixed-use developments, including a variety of compatible building types and urban uses; buildings with active building frontages set at or close to the sidewalk; and pedestrian-oriented scale with wide sidewalks, regularly spaced street trees, and amenities that create a walkable environment.

(a) Permitted Uses.

(1) *Primary Uses.*

- (A) Clothing Service: Including but not limited to: Costume Rental; Dressmaking; Dry Cleaning and Laundry Establishment; Millinery (Fabric) Shop; Self-service Laundry; Shoe Repair Shop; Tailor and Pressing Shop; Tuxedo Rental.
- (B) Educational Uses: Including but not limited to: *Child Care Center*; *Child Care Ministry*; *Cottage School*; Public Library; School – Commercial, Trade or Business.

- (C) Food Sales and Service: Including but not limited to: Bakery – Retail; Bar *; Cabaret – 21 and Over *; Cabaret – Family; Convenience Store; Dairy Bar – Retail; Delicatessen; Farmers Market; Grocery; Ice Cream Store – Retail; *Manufacturing Retailers*; *Nightclub* *; *Restaurant – Fast Food*; *Restaurant – Family*; *Restaurant – Family with Lounge*; *Tavern* *; Yogurt Store – Retail.
- (D) Governmental Use: Including but not limited to: Governmental Offices; Post Office – without outdoor parking of delivery vehicles.
- (E) Miscellaneous: Including but not limited to: *Bed & Breakfast*; Bus, taxi, or limousine terminal, without repair; Clinic (medical, dental or optometrists); Conference Center; *Cottage Business / Residential*; Electrical / Electronics Repair; Hospital; *Hotel*; Laboratories; *Mini (Self Storage) Warehouse, Internal Access*; Print Shop; Publishing; Radio / TV Stations (provided any antenna shall comply with the regulations for Communication / Utilities); Video Production Studios.
- (F) Office / Professional Services: Including but not limited to: Architect; Artist; Bank Machines - Walk-up; Construction Companies (office only); Consultant; Contractors (office only); Dentist; Design Services; Engineer; Financial Institution; Insurance Agent; Lawyer; Musician; Physician; Pharmacist; Photographic Studio; Professional Offices; Real Estate Office; Travel Agency.
- (G) Personal Service: Including but not limited to: Barber Shop; Beauty Shop; Health Spa; Fitness Center.
- (H) Public Facilities: Including but not limited to: Community Center; Funeral Home; Mortuary; Museum; Public or Private *Park – Active or Passive*; *Religious Use*; Commercial Parking Lot; Parking *Garage*.
- (I) Recreation: Including but not limited to: Aerobics Studio; Amusement Arcade *; Banquet Hall; Billiard Hall *; Dance Studio; Public Dance Hall *; Social Hall; Theater – indoor.
- (J) Residential – In CBD Districts Located West of the St. Joseph River: Including but not limited to: *Dwelling Units* or *Shared Housing* – limited to (i) floors above the first floor or (ii) ground floor of the *building* if located behind another ground floor, non-residential *permitted use*; Convalescent Home; Nursing Home; Rest Home.
- (K) Residential – In CBD Districts Located East of the St. Joseph River: Including but not limited to: *Multifamily dwellings*; *Dwelling Units* – limited to floors above the first or ground floor of the *building*; Convalescent Home; Nursing Home; Rest Home; *Shared Housing*.

- (L) Retail: Including but not limited to: Antique Shop; Apparel Shop; Art Gallery; Arts and Craft Store; Bicycle Sales and Service; Camera Store; Card Shop; Clock Shop; Coin and Stamp Shop; Computer Store; Drug Store; Flower Shop; Frame Shop; Gift Shop; Hobby Shop; Toy or Game Shop; Jewelry Store; Liquor Store; Music Store; Newsdealer; Pawnshop *; Shoe Store; Stationery and Book Store; Tobacco Store; Video Store.
- (M) Utilities: Including but not limited to: Roof-top Antenna.

* = *Controlled Use*. See Section 21-08.02 – Special Regulations for Controlled Uses for additional requirements.

(2) *Special Exception Uses.*

- (A) Automotive Uses: Including but not limited to: Automobile Repair – major; Automobile Repair – minor; Automobile Parts Sales (new); Automobile Sales & Service; Automobile Quick Oil Change Facility; Gasoline Service Station with minor repair (not to exceed two (2) accessory indoor service bays); Gasoline Service Station without repair; Tire and Auto Service Center.
- (B) Food Sales & Service: Including but not limited to: *Restaurant – Drive In; Restaurant – Drive Through.*
- (C) Governmental Use: Including but not limited to: Post Office – with outdoor parking of delivery vehicles.
- (D) Miscellaneous: Including but not limited to: Casinos, Approved Hotels and other areas where gambling games are conducted *; Off-Track Pari-mutuel Wagering Facility *.
- (E) Office / Professional Services: Including but not limited to: Financial Institution with drive-up or drive-through facilities.
- (F) Personal Service: Including but not limited to: Tattoo, Body Piercing, Scarifying and Branding Establishments *.
- (G) Recreation: Including but not limited to: Stadium; Arena.
- (H) Residential (in CBD Districts located west of the St. Joseph River): *Two Family Dwellings; Multifamily Dwellings; Group Residence.*
- (I) Residential (in CBD Districts located east of the St. Joseph River): *Two Family Dwellings; Group Residence.*

- (J) Utilities: Including but not limited to: Electricity Relay Station; Public Utility Substation; Pumping Stations; Water Towers; Any Ground Mount Antenna Installation.

* = *Controlled Use*. See Section 21-08.02 – Special Regulations for Controlled Uses for additional requirements.

- (3) *Accessory Uses* – See Section 21-03.11 (a) – Accessory Uses, Buildings and Structures.
- (4) *Temporary Uses* – See Section 21-03.11 (b) – Temporary Uses, Buildings and Structures.
- (5) *Home Occupations* – See Section 21-03.11 (c) – Home Occupations.

(b) Development Standards.

- (1) Minimum *Project Width* and *Frontage* - each *project* shall have a minimum *lot width* and *frontage* on a *public street* of 20 feet.
- (2) *Yards and Building Setbacks*:
- (A) Front - a *front yard* and *building setback* measured from the greater of the *proposed right-of-way* or existing *right-of-way* shall be provided as follows:

	<u>Minimum</u>	<u>Maximum</u>
<i>Limited Access Highway</i> :	50'	NA
All Other <i>Streets</i> :	0'	10'

Provided, however, on all *streets* except *limited access highways*, *building* placement shall be in compliance with the following regulations:

- i. For sites containing one *building* – ~~in elevation plan view from the street frontage~~, at least eighty-five percent (85%) of the length of the front façade of the *building* facing a *primary street* in plan view shall be located at or between the *minimum setback* and the *maximum setback*, and at least fifty percent (50%) of the length of the façade of the *building* facing a *secondary street* shall be located at or between the *minimum setback* and the *maximum setback*;
- ii. For sites containing multiple *buildings* – ~~in elevation view from the street frontage~~, at least eighty-five percent (85%) of the visible façades of the *buildings* facing a *primary street* in plan view shall be located at or between the *minimum setback* and the *maximum setback*, and at least fifty percent (50%) of the

visible façades of the *buildings* facing a secondary *street* shall be located at or between the *minimum setback* and the *maximum setback*; and,

- iii. *Parking areas* and *interior access drives* shall not be located in front of a line five (5) feet behind the *front building line*. If the *lot* does not have a *building*, *parking areas* and *interior access drives* shall have a *minimum front setback* of ten (10) feet. If a *parking area* or *interior access drive* is located less than fifteen (15) feet from the *front lot line*, it shall be screened by a compact row of shrubs/hedge plants planted three feet on-center (3' o.c.) immediately behind the *front building line*. Shrubs shall be at least twenty-four inches (24") at time of planting.
 - (B) *Minimum Side Yard and Setback* – Zero (0) feet, provided, however, if a *side yard* is provided along a *side lot line* not abutting an *alley*, such *setback* shall not be less than five (5) feet.
 - (C) *Minimum Rear Yard and Setback* – The *minimum rear yard* and *setback* shall be as follows:
 - i. *Minimum Rear Yard* - zero (0) feet, however, if a *rear yard* is provided along a *rear lot line* not abutting an *alley*, such *setback* shall not be less than five (5) feet.
 - ii. *Minimum Rear Residential Bufferyard* – twenty (20) feet when not separated from a ground-floor *residential use* by a *public alley*. If separated from a ground-floor *residential use* by a *public alley*, no *rear residential bufferyard* is required.
 - (D) *Minimum Yard and Setback* from any *lot line* along ~~or~~ and adjacent to the St. Joseph River or East Race – Fifteen (15) feet.
- (3) Use of *Minimum Yards and Residential Bufferyards*.

All *minimum yards* and *residential bufferyards*, when required, shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in Section 21-07.01 – Landscape Regulations of this Ordinance and shall remain free from *structures*, except where expressly permitted below:

- (A) *Minimum Front Yards* along limited access highways – may include: fences, retaining walls under 42", parking areas, loading areas, interior access drives, interior access driveways, or gasoline sales areas, provided that no portion of such area may be located closer to the right-of-way than fifteen (15) feet; or, signs as regulated by Section 21-07.03 – Sign Regulations of this Ordinance, and shall be otherwise maintained as open space free from *buildings* or *structures*;

- (B) *Minimum Rear Residential Bufferyards* – may include fences, retaining walls, driveway connections to adjoining *lots*, or *walkways* or other pedestrian way connections to adjoining *lots*, provided that the remainder of said *yards* shall otherwise be maintained as *open space* free from *buildings* or *structures*;
 - (C) *Minimum Yards along the St. Joseph River and East Race* – may include fences, retaining walls, walkways or other pedestrian way connections to adjoining *lots*; *plazas*; outdoor seating areas; stoops, *patios, porches, and decks* less than 30” above grade; or, signs as regulated by Section 21-07.03 – Sign Regulations of this Ordinance, and shall be otherwise maintained as open space free from *buildings* or *structures*.
- (4) *Building Height.*
- (A) *CBD Districts Located West of the St. Joseph River:*
 - i. *Minimum Front Façade Height* – in the elevation view from the *street frontage*, sixteen (16) feet.
 - ii. *Maximum Building Height* – the lesser of one-hundred and fifty (150) feet or twelve (12) stories.
 - (B) *CBD Districts Located East of the East Race Waterway:*
 - i. *Minimum Front Façade Height* – in the elevation view from the *street frontage*, sixteen (16) feet.
 - ii. *Maximum Building Height* – the lesser of sixty (60) feet or five (5) stories.
 - (C) *CBD Districts located in the area bounded by the St. Joseph River and the East Race Waterway:*
 - i. *Minimum Front Façade Height* – in the elevation view from the *street frontage*, sixteen (16) feet.
 - ii. *Maximum Building Height* – no greater than one hundred fifty (150) feet.
- (5) *Landscaping* – See Section 21-07.01 – Landscape Regulations.
- (6) *Lighting* – See Section 21-07.02 – Lighting Regulations.
- (7) *Signs* – See Section 21-07.03 – Sign Regulations.
- (8) *Parking* – See Section 21-07.04 – Off-Street Parking Regulations.

- (9) Loading – See Section 21-07.05 – Off-Street Loading Regulations.
- (10) *Greenway* Connection Required – If the *lot* abuts any portion of a *greenway*, a direct linkage from the *project* to such *greenway* shall be provided.
- (11) Outdoor Operations – All uses and operations (except *off-street parking*, *off-street loading* and delivery and walk-up customer service windows) shall be conducted completely within enclosed *buildings*, except where expressly permitted below:
- (A) Outdoor seating for restaurants, provided that such outdoor seating:
- i. shall not be located in any *street right-of-way* except as permitted by the Board of Public Works; and,
 - ii. shall not block an entrance or exit to or from the business or *building* or conflict with Americans with Disabilities Act standards.
- (B) *Outdoor display* or sales of merchandise:
- i. shall not be located in any *street right-of-way* except as permitted by the Board of Public Works;
 - ii. shall not block an entrance or exit to or from the business or *building* or conflict with Americans with Disabilities Act standards;
 - iii. shall not exceed ten percent (10%) of the *gross floor area* of each non-related and separately operated use;
 - iv. shall be permitted only during the hours of operation of the business and shall be removed at the close of each business day; and,
 - v. shall be merchandise normally found within the on-premise business.
- (C) Walk-up customer service windows or Automated Teller Machines (ATM's), provided that such facilities are not free-standing and are set flush with the façade of the *building*.

(12) Building Design and Orientation.

(A) Orientation.

- i. Primary *façades* shall be oriented to the *front lot line*. When on a *corner lot*, the primary *façade* shall be oriented to the primary *street*.
- ii. The primary *building* entrance shall be located on the *front façade*.

(B) Articulation and Activation.

- i. *Front façades* greater than fifty (50) feet in width shall provide articulation as follows:
 - a. Vertical articulation, such as bays, columns, pilasters, recessed entries, awnings, or other architectural treatments, is required to visually break up the massing of the *façade* into segments no greater than 25 feet in width.
 - b. Horizontal articulation, such as belt courses, cornice lines, entablatures, friezes, changes in materials or window patterns, recessed entries, awnings or canopies, or other architectural treatments, is required.
- ii. For commercial and mixed-use *buildings*, the minimum *front façade* surface that shall be glazed (window and door surface area) is as follows:
 - a. Ground floor *front façade* surface along a primary *street* – sixty (60) percent;
 - b. Ground floor *front façade* surface along a secondary *street* or civic space – forty (40) percent;
 - c. Upper floor *front façade* surface along a primary *street* – fifteen (15) percent.

The ground floor *front façade* glazing is calculated based on the total *façade* area between two (2) and eight (8) feet above the finished ground floor level. The upper floor *front façade* surface area is calculated based on the total *façade* area located between the surface of any floor to the surface of the floor above it or the elevation of the roof. Windows and doors shall have clear (untinted) glass and shall be open to the interior (not faux).

Commented [DM1]: Clear glass on multifamily buildings will likely not pass our state energy codes. We typically use "Low E 2" coatings, which do contain a brownish tint (but usually not significant). Low E 3 coatings, typically green in color, are also sometimes used, especially on south facing commercial buildings. Is this intended to ban that?

Commented [AMS2R1]: This is a great discussion point. At this time, this language is used in other sections of the ordinance and could be interpreted fairly broadly (i.e. not interpreted to prohibit energy efficient coating provided the intent was meant that you could still see through the window). Because this might affect multiple sections of the ordinance, we'd like to wait to address it in the 2020 update.

- iii. Except for civic buildings, the distance between building entries shall not exceed 100'.
- iv. A *walkway* shall connect from the *sidewalk* to the primary entrance.

(C) *Building Materials.*

- i. Additions to Existing *Buildings*: All additions to existing *buildings* shall utilize *building materials* that are compatible and harmonious with the materials used on the existing *building*.
- ii. Exterior Renovations, Major Additions and *Accessory Buildings*: Exterior renovations, major additions and *accessory buildings* to existing *buildings* or facilities are encouraged to comply with the provisions in sub-Section (iii), below, for new construction, however, the minimum requirement for exterior renovations, major additions and accessory buildings shall be the same as in sub-Section (i), above, for additions to existing *buildings*.
- iii. New Construction: In order to create variation and interest in the built environment, all new primary *buildings* shall comply with one (1) of the following two (2) sets of architectural regulations regarding *building material* and architectural features on each *front façade*:
 - a. All brick or stone (limestone, granite, etc.), excluding window, display window, door, roofing, fascia and soffit materials, provided that the brick or stone used on each applicable *façade* shall include at least two (2) architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.); or,
 - b. Two (2) or more *building materials* (excluding window, display window, door and roofing materials), provided:
 - 1. *Primary Building Material*: The primary *building material* shall be either: brick; stone (limestone, granite, etc.); synthetic equivalents of brick or stone; architectural pre-cast concrete, if the surface looks like brick or natural stone; traditional lime-based stucco; or fiber cement, and shall constitute a minimum of sixty-six (66) percent of each applicable *façade* excluding glazed surfaces. Exterior insulation and finish

system (E.I.F.S.) or equivalent; vinyl; or standard, fluted, or split face concrete masonry units (CMUs) are prohibited as a primary *building material*.

2. *Secondary Building Material*: The secondary *building material* shall constitute a minimum of ten (10) percent of the *façade* excluding glazed surfaces. Glass curtain wall may qualify as a secondary *building material*.
3. *Architectural Features*: In addition, the exterior *building material* selection shall be supplemented with the use of multiple colors or architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.) on each *front façade*.

iv. *Building materials* used on the *front façade* shall extend a minimum depth of sixteen (16) inches along the *side façade* as measured from the face of the *front façade*.

(D) ~~Mechanical Equipment – HVAC equipment shall not be placed in the front yard or on the front façade. HVAC equipment, except where such elements are enclosed, camouflaged, screened, obscured, or otherwise not readily visible from the public domain, are prohibited as part of a front façade or between the front façade and the front lot line.~~

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SECTION II. 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

Zoning Quick Fixes
 Reform to CBD Central Business District Standards
 Last updated June 4, 2019

Ordinance Section (all in Section 21-03.06)		Item	Current Standard	Proposed Standard	Notes
	Intent		Does not mention typical physical characteristics	Adds typical physical characteristics	Illustrates desired characteristics of CBD built environment
(a)(1), (a)(2)	Primary Uses		Manufacturing Retailers is a special exception use	Manufacturing Retailers is a primary use	Allows common and desired use without requiring special exception
(a)(2)	Special Exception Uses		Two Family Dwellings are not permitted	Two Family Dwellings are a special exception use	Allows for possibility of two family dwellings through special exception process
(b)(1)	Minimum Lot Width	30'		20'	Reduces minimum lot width to promote urban character and small-scale development
(b)(2)(A)	Maximum Front Setback	15'		10'	Reduces maximum setback to promote urban character
(b)(2)(A)(i), (i)	Façade within Setback Zone along a Primary Street	50%		85%	Raises percentage of primary façade that must fall in setback zone to encourage efficient use of land and promote urban character
(b)(2)(A)(iii)	Parking Area Placement		Parking areas shall not be located in front of maximum setback (15')	Parking areas shall be located at least 5' behind front building line (10' minimum setback if no primary structure) and shall be screened by a shrub row	Reduces visual impact of parking areas while allowing fuller use of site
(b)(2)(B)(ii)	Minimum Side Residential Bufferyard	20'		0' (standard eliminated)	Allows fuller use of site consistent with traditional urban development
(b)(2)(C)(ii)	Minimum Rear Residential Bufferyard	20'		20' when not separated from a ground-floor residential uses by an alley; no bufferyard when separated from ground-floor residential uses by an alley	Allows fuller use of site consistent with traditional urban development
New	Minimum Setback along St. Joseph River and East Race	None		15'	Allows setback for views, preservation of river banks, and additional flood safety
(b)(2)(D)	Minimum Yards for Out Lots		Provides standards for out lots	None (subsection eliminated)	Use of out lots is inconsistent with intent for CBD District
(b)(3)(A)(ii)	Plaza Requirements		Requires plaza development in front yards not used for structures	None (plaza requirement eliminated)	Language ineffective in practice and largely redundant to existing landscaping standards
(b)(3)(B)	Minimum Front Residential Bufferyards		Provides standards for minimum front residential bufferyards	None (subsection eliminated)	Ordinance has no provision that creates minimum front residential bufferyard
(b)(3)(C)	Use of Minimum Side and Rear Yards		Provides standards for use of minimum side and rear yards	None (subsection eliminated)	Ordinance does not require minimum side and rear yards in CBD District
(b)(3)(D)	Use of Minimum Side and Rear Residential Bufferyards		Does not allow driveways	Allow driveways that connect to neighboring properties	Allows for private connection to neighboring lots
New	Use of Yards along St. Joseph River and East Race	None		Allows walkways, plazas, outdoor seating areas, stoops, patios, porches, decks, and signs within setback area	Allows uses that activate and interact with river to be within setback
Ordinance Section (all in Section 21-03.06)		Item	Current Standard	Proposed Standard	Notes
(b)(4)(A)(i), (b)(4)(B)(i), (b)(4)(C)(i)	Minimum Front Façade Building Height		28' west of river, 22' east of river	16'	Allows for tall one-story buildings (two-story buildings or one-story buildings with excessive extensions no longer required)

(b)(11)	Outdoor Operations (Restaurant Seating and Merchandise Sales)	Provides permissible locations for outdoor operations; limits operations to only along storefront facade	Provides permissible locations for outdoor operations; provides for ADA accessibility around outdoor operations	Clarifies provision to match intent for location of outdoor operations
(b)(12)(C)	Building Material Regulations	Applies to each facade visible from a public street	Applies to each front facade	Clarifies provision to match intent
(b)(12)(C)(i), (ii)	Building Materials	Building must be all brick or have two or more materials, including brick, stone, concrete looking like brick or stone, or EIFS	Building must be all brick or stone or have two or more materials, including brick, stone, concrete or synthetic materials looking like brick or stone, stucco, or fiber cement	Provides more flexibility with higher quality building materials
New	Building Orientation	None	Primary facades shall be oriented to the front lot line. When on a corner lot, the primary facade shall be oriented to the primary street	Provides for safer and more attractive, comfortable street environment
New	Building Entry Location	None	The primary entrance shall be located on the front facade	Provides for safer and more attractive, comfortable street environment
New	Building Articulation of Front Façade	None	Vertical articulation breaking up massing of façade into segments of no more than 25' is required; horizontal articulation is required	Prevents buildings with an overly flat appearance; provides for more attractive, comfortable street environment
New	Glazing / Windows	None	For commercial and mixed use buildings, a minimum of 60% of the ground floor front facade surface along a primary street and 15% of the upper floor front facade surface area along a primary street shall be glazed (window and door surface area). A minimum of 40% of ground floor front facade surface along a secondary street or civic space shall be glazed (window and door surface area). The ground floor front facade glazing is calculated based on the total facade area between two and eight feet above grade. The upper floor front facade surface area is calculated based on the total surface area located between the elevation of any floor to the elevation of the floor above it or the roof. Windows and doors shall have clear glass and shall open to the interior (not be faux)	Provides for safer and more attractive, comfortable street environment
New	Distance Between Building Entries	None	The distance between building entries shall not exceed 100'	Provides for safer and more attractive, comfortable street environment
New	Sidewalk Connection	None	A sidewalk shall connect from the public sidewalk to the primary entrance	Provides for safer and more attractive, comfortable street environment
New	Building Materials	None	Building materials used on front facade shall extend a minimum of 16" along side facades	Provides higher level of building quality
New	Mechanical Equipment Location	None	HVAC equipment shall not be placed in the front yard or on the front facade	Provides for more attractive street environment



LAWRENCE P. MAGLIOZZI
EXECUTIVE DIRECTOR

AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571

June 19, 2019

Honorable South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

RE: Bill #15-19
Rezoning: APC#2898-19 CBD District

Dear Council Members:

The Area Plan Commission held a public hearing on June 18th, 2019 for the above referenced petition. This petition is set for public hearing before the Common Council on Monday, June 24th, 2019.

Ordinance & Petition Amendments:

The ordinance has changed since the original submittal and the most recent version is attached.

Public Hearing Summary:

There were two people who spoke in favor. Brian McMorrow was speaking in favor for the Home Builders Association, though he brought up a concern about listing specific building materials as those could change quickly compared to the ordinance. Dan Buckenmeyer also spoke in favor.

If you have any further questions, please feel free to contact me at (574) 235-9571.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jordan Wyatt', written over a horizontal line.

Jordan Wyatt
Planner

CC: Bob Palmer

SERVING ST. JOSEPH COUNTY, SOUTH BEND, LAKEVILLE, NEW CARLISLE, NORTH LIBERTY, OSCEOLA & ROSELAND

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LAWRENCE P. MAGLIOZZI
EXECUTIVE DIRECTOR

AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 233-9571

Wednesday, June 19, 2019

The Honorable Council of the City of South Bend
4th Floor, County-City Building
South Bend, IN 46601

RE: An ordinance initiated by the Common Council of the City of South Bend, Indiana, amending Chapter 21 of the South Bend Municipal Code, Article 3 Commercial/Mixed Use Districts to repeal and replace CBD Central Business District - APC# 2898-19.

Dear Council Members:

I hereby Certify that the above referenced ordinance of Initiated by Common Council was legally advertised on June 6, 2019 and that the Area Plan Commission at its public hearing on June 18, 2019 took the following action:

Upon a motion by John R. McNamara, being seconded by John DeLee and carried, a proposed ordinance initiated by Common Council is sent to the Common Council with a FAVORABLE recommendation. This ordinance revises uses and development standards to better support the development of a mixed-use urban core having pedestrain oriented design, characteristics appropriate for the urban center of a multi-county region.

The deliberations of the Area Plan Commission and points considered in arriving at the above decision are shown in the minutes of the public hearing, and will be forwarded to you at a later date to be made a part of this report.

Sincerely,

A handwritten signature in black ink that reads 'L. P. Magliozzi'. The signature is fluid and cursive, with the first letters of the first and last names being capitalized.

Lawrence P. Magliozzi

Staff Report

6/11/2019

APC # 2898-19
Owner: Initiated by Common Council
Location: Text Amendment
Jurisdiction: City of South Bend
Public Hearing Date: 6/18/2019

Requested Action:

An Ordinance of the Common Council of the City of South Bend, Indiana, Amending Chapter 21 of the South Bend Municipal Code, Article 3 Commercial/Mixed Use Districts to Repeal and Replace Section 21-03.06 CBD Central Business District.

Staff Comments:

This ordinance was drafted to simplify regulations and stimulate development in the heart of South Bend. Experience using the Ordinance's provisions for the CBD Central Business District has shown that development in this district is unable to meet its full potential through efficient use of sites and development of standards to better support a vibrant public realm. The new CBD District seeks to promote a high intensity urban center with a mixture of mid-rise and high-rise mixed-use developments and pedestrian-oriented scale.

Recommendation:

Based on information available prior to the public hearing, the staff recommends that the petition be sent to the Common Council with a FAVORABLE recommendation.

Analysis:

This ordinance revises uses and development standards to better support the development of a mixed-use urban core having pedestrian-oriented design, characteristics appropriate for the urban center of a multicounty region.

1200N COUNTY-CITY BUILDING
227 W. JEFFERSON BLVD.
SOUTH BEND, INDIANA 46601-1830



PHONE 574.235.9216
FAX 574.235.9928

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR

DEPARTMENT OF ADMINISTRATION AND FINANCE

June 24, 2019

Mr. Tim Scott, President
City of South Bend Common Council
227 W. Jefferson Boulevard, 4th Floor
South Bend, Indiana 46601

RE: Supplemental Bond Ordinance

Dear President Scott,

The City of South Bend was recently contacted by the Indiana Bond Bank with an opportunity to refinance an outstanding Water Works Bond Issue. Given current interest rates, this opportunity would allow the City to save a substantial amount of money on interest expense. The attached Supplemental Bond Ordinance authorizes the City to amend its original bonds.

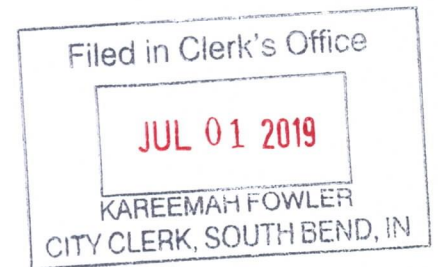
I will present this bill to the Common Council at the appropriate committee and council meetings. It is requested that this bill be filed for 1st reading on July 8, 2019 with 2nd reading, public hearing and 3rd reading scheduled for July 22, 2019.

Thank you for your attention to this request. If you should have any questions, please feel to contact me at 574-235-9822.

Regards,

A handwritten signature in blue ink, appearing to read "Daniel T. Parker", is written over a horizontal line.

Daniel T. Parker
City Controller



BILL NO. 20-19

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, SUPPLEMENTING AND AMENDING ORDINANCE NO. 9937-09 FOR THE PURPOSE OF AUTHORIZING THE MODIFICATION OF CERTAIN CONTRACTUAL RIGHTS OF THE CITY, THE EXECUTION AND DELIVERY OF ITS AMENDED WATERWORKS REVENUE BONDS OF 2009, SERIES B, AND APPROVING CERTAIN RELATED MATTERS IN CONNECTION THEREWITH

STATEMENT OF PURPOSE AND INTENT

The City of South Bend, Indiana (the "City"), has heretofore established, constructed, and currently owns and operates a waterworks system (the "Utility"), pursuant to the provisions of Indiana Code 8-1.5, as amended.

On November 19, 2009, the City issued its bonds designated as the "City of South Bend, Indiana, Waterworks Revenue Bonds of 2009, Series B" in the original aggregate principal amount of \$5,380,000 (the "Original Bonds"), which are payable from the net revenues of the Utility, in order to provide funds to pay the costs of certain works of improvement to the Utility and to pay incidental charges in connection therewith, all pursuant to Ordinance No. 9937-09 adopted by the Common Council of the City (the "Common Council") on June 8, 2009 (the "Original Ordinance"). These Original Bonds are outstanding in the aggregate principal amount of approximately \$3,835,000.

Pursuant to the terms of the Original Bonds and the Qualified Entity Purchase Agreement, dated November 11, 2009 (the "Original Purchase Agreement"), by and between the City and the Indiana Bond Bank (the "Bond Bank"), the Original Bonds maturing on or after January 1, 2021, are subject to redemption prior to maturity, at the option of the City, on any date on or after January 1, 2020 (such rights hereinafter referred to as the "Call Rights").

The Bond Bank previously issued its Indiana Bond Bank Special Program Bonds, Series 2009 C-1, dated November 19, 2009, in the aggregate principal amount of \$22,235,000 (the "Prior Bond Bank Bonds"), for the purpose, in part, of providing funds to purchase the Original Bonds from the City, and the Bond Bank has authorized and intends to issue one or more series of its Indiana Bond Bank Special Program Refunding Bonds, Series 2019 A, with such further or different series designation as may be determined by the Bond Bank (collectively, the "Refunding Bond Bank Bonds"), for the purpose of refinancing the outstanding Prior Bond Bank Bonds and paying all costs of issuance related thereto, in order to achieve interest cost savings due to favorable market conditions (the "Refunding Program").

As a condition to sharing a portion of the economic benefits associated with the Refunding Program with the City, the Bond Bank has requested that (a) the City modify the Call Rights and evidence the modification of such Call Rights and receipt of such Call Rights Modification Credit (as hereinafter defined) (all in exchange for receiving a portion of the economic benefits associated with the Refunding Program) by executing and delivering its Amended Bonds (as hereinafter defined), and (b) upon the closing on the Refunding Bond Bank Bonds and satisfaction of the other terms and conditions set forth herein, exchanging the Amended Bonds for the outstanding Original Bonds. Pursuant to the terms of the Original Ordinance, the City may grant or confer upon the owners of the Original Bonds any additional benefits, rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the owners of the Original Bonds, or to make any change which, in the judgment of the City, is not to the prejudice of the owners of the Original Bonds.

Furthermore, the terms of the Original Ordinance provide that, the City may, from time to time and at any time, without consent of, or notice to, any of the owners of the Original Bonds, amend the Original Ordinance for any purpose if in the judgment of the City such amendment does not adversely affect the interests of the owners of the outstanding Original Bonds.

As of the date of filing of this ordinance, the Bond Bank is the registered owner of all of the outstanding Original Bonds, and the City desires to adopt this supplemental ordinance (the "Supplemental Ordinance") in order to supplement and amend the Original Ordinance (the Original Ordinance, as supplemented and amended by this Supplemental Ordinance, collectively, the "Ordinance") for the purpose of authorizing the modification of the Call Rights and the execution and delivery of the Amended Bonds (in order to evidence the modification of such Call Rights), all in consideration for the Bond Bank (a) crediting to the City a portion of the economic benefits associated with the Refunding Program in an amount estimated to be, based upon current market conditions, approximately \$1,135,539 (the "Call Rights Modification Credit"), with such Call Rights Modification Credit being in the form of a reduction in one or more payments of debt service on the Original Bonds (which will be evidenced by the Amended Bonds), and (b) returning all of the outstanding Original Bonds to the City. The Common Council has determined that a significant benefit to the City in the amount of the Call Rights Modification Credit will be effected by assisting the Bond Bank in the undertaking of the Refunding Program, and that the modification of the Call Rights and the execution and delivery of the Amended Bonds will not adversely affect the owners of the Original Bonds upon the execution and delivery of the Amended Bonds. The Common Council further finds that all conditions precedent to the adoption of this Supplemental Ordinance have been complied with in accordance with the provisions of Indiana Code 5-1-5 and Indiana Code 8-1.5, each as amended (collectively, the "Act"), to the extent each is applicable hereto.

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

SECTION I. Authorization of Transaction; Modification of Call Rights. The Common Council hereby determines that (a) the receipt of the Call Rights Modification Credit (in the form described in the recitals hereof) in exchange for the modification of the Call Rights by the City, and (b) the execution and delivery by the City of the Amended Bonds to the Bond Bank in

exchange for the outstanding Original Bonds now held by the Bond Bank, in order to evidence the modification of such Call Rights and the receipt of the Call Rights Modification Credit (clauses (a) and (b), collectively, the "Transaction"), is in the best interests of the City and is consistent with and in furtherance of the purposes for which the City was created and exists. Accordingly, the City is hereby authorized to modify the Call Rights and to execute and deliver the Amended Bonds, all in accordance with the terms and conditions of this Supplemental Ordinance.

SECTION II. The Amended Bonds. In accordance with the Act and for the purpose of the Transaction, the City shall execute and deliver its amended bonds designated as the "City of South Bend, Indiana, Amended Waterworks Revenue Bonds of 2009, Series B", in an original aggregate principal amount not to exceed the aggregate principal amount of the Original Bonds which are currently outstanding (the "Amended Bonds"), and exchange the Amended Bonds for all of the outstanding Original Bonds.

SECTION III. Except where inconsistent with the provisions of this Supplemental Ordinance, the terms and conditions of the Amended Bonds shall be the same as those of the outstanding Original Bonds as provided in the Original Ordinance; provided, however, if requested by the Bond Bank, the Amended Bonds may be issued as one or more term bonds subject to mandatory sinking fund redemption payments. The form of the Amended Bonds shall be substantially in the form set forth in the Original Ordinance, with such conforming changes as shall be necessary to reflect the terms and conditions set forth in this Supplemental Ordinance and in the Amended Purchase Agreement (as defined herein), including the modification of the Call Rights. The Amended Bonds shall be executed and delivered in the same manner and in accordance with the terms and conditions of the Original Ordinance and the Act.

SECTION IV. Redemption Provisions of the Amended Bonds. Notwithstanding anything in the Original Ordinance, the Original Purchase Agreement or the Original Bonds to the contrary, (a) if in the best interests of the City as determined by the Controller of the City (the "Controller"), the Call Rights may be modified so that the Amended Bonds shall be subject to redemption at the option of the City on any date on or after the first optional redemption date on the Refunding Bond Bank Bonds (if any), at a redemption price equal to the principal amount thereof so called for redemption plus accrued interest to the date fixed for redemption, or (b) if in the best interests of the City as determined by the Controller, the Call Rights may be waived so that the Amended Bonds shall not be subject to optional redemption prior to maturity.

SECTION V. Application of Call Rights Modification Credit. The Common Council hereby agrees that the Call Rights Modification Credit shall be applied to reduce one or more semi-annual debt service payments on the Original Bonds, and that such reductions of one or more semi-annual debt service payments shall be evidenced by the Amended Bonds. Prior to the undertaking of the Refunding Program, the Controller is authorized to select the manner by which the City desires to apply the Call Rights Modification Credit to the debt service payment(s) on the Amended Bonds, and to notify the Bond Bank, in writing, of such determination. The determination of the manner for applying the Call Rights Modification Credit shall be set forth in a schedule to be attached to the Amended Purchase Agreement (as defined herein). The Common Council of the City hereby further authorizes the Mayor, the City Clerk

and/or the Controller to execute all such documents and take such actions as may be necessary or appropriate to effectuate the option selected by the Controller.

SECTION VI. Authorized Denominations of Amended Bonds. Notwithstanding anything in the Original Ordinance, the Original Purchase Agreement or the Original Bonds to the contrary, the Amended Bonds shall be executed and delivered in such denominations as shall be requested by the Bond Bank.

SECTION VII. The Amended Purchase Agreement. The Qualified Entity Purchase Agreement, in substantially the form attached as Exhibit A hereto and made a part hereof (the "Amended Purchase Agreement"), is hereby approved. The Mayor and the Controller of the City are each hereby authorized and directed to execute the Amended Purchase Agreement, with such changes in form or substance as the officers of the City executing the same may hereafter approve in order to best fulfill the purpose of the Transaction, and with any such approval to be conclusively evidenced by the execution thereof, and to deliver the Amended Purchase Agreement and the Amended Bonds to the Bond Bank.

SECTION VIII. Offering Document / Continuing Disclosure Agreement. Use of information concerning the City in any offering materials, including a preliminary official statement, final official statement or private placement memorandum of the Bond Bank (collectively, the "Offering Document") and distributed in connection with the undertaking of the Refunding Program, is hereby authorized, ratified and approved. The Mayor, the City Clerk and the Controller of the City, or their authorized designees, are each hereby authorized and directed to have prepared and delivered to the Bond Bank, an underwriter or a purchaser any information required for such use and further to deem and determine, if necessary, those portions of the Offering Document, if any, relating to the City as near final for purposes of Rule 15c2-12 of the United States Securities and Exchange Commission, as amended (the "SEC Rule"). Further, if necessary, the Mayor and the Controller of the City, or their authorized designees, are each hereby authorized and directed to execute a continuing disclosure agreement, in a form and substance acceptable to the Mayor and the Controller of the City, in order to allow any underwriter of the Refunding Bond Bank Bonds to comply with the SEC Rule if necessary.

SECTION IX. Further Actions. The Mayor, the City Clerk and the Controller are each hereby authorized and directed, for and on behalf of the City, to execute, attest and seal all such documents, instruments, certificates, closing papers and other papers and do all such acts and things as may be necessary, desirable or appropriate to effect the Transaction and the Refunding Program and to carry out the purposes of this Supplemental Ordinance and the execution and delivery of the Amended Bonds in accordance with the Ordinance, including, but not limited to, the execution of any certificates, purchase agreements, continuing disclosure agreements or other documents necessary to effect the Transaction and the Refunding Program, and any and all actions, documents, agreements and certificates heretofore taken or executed in connection with the Transaction and the Refunding Program or this Supplemental Ordinance, be, and hereby are, ratified and approved.

SECTION X. Construction with Other Ordinances. This Supplemental Ordinance is hereby intended to amend and supplement the Original Ordinance, and to the extent of any inconsistencies or conflicts, if any, between any provision or provisions of this Supplemental

Ordinance and the Original Ordinance, the provisions of this Supplemental Ordinance shall be controlling and binding. All ordinances or parts of ordinances, except the Original Ordinance as supplemented and amended by this Supplemental Ordinance, in conflict with the Ordinance are hereby repealed. Unless the context otherwise requires and except as supplemented herein, any references in the Original Ordinance to the Original Bonds shall mean the Amended Bonds and any accounts created and maintained by the City for the benefit of holders of the Original Bonds shall now be maintained, and the funds therein shall now be held, for the benefit of the holders of the Amended Bonds.

SECTION XI. Effective Date. 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, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 2019, at _____ o'clock ____ . m.

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

Approved and signed by me on the _____ day of _____, 2019, at ____ o'clock ____ .m.

Pete Buttigieg, Mayor
City of South Bend, Indiana

EXHIBIT A
FORM OF AMENDED PURCHASE AGREEMENT

(attached)

SUBSTITUTE BILL NO. 21-19

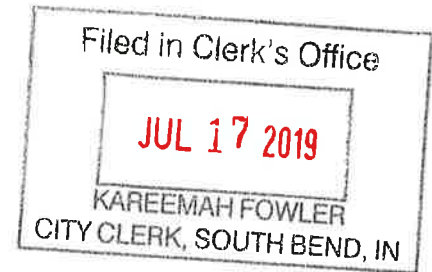
1300 COUNTY-CITY BUILDING
227 W. JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9486
FAX 574/ 235-7703

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
DEPARTMENT OF CODE ENFORCEMENT
TRACY SKIBINS
DIRECTOR

Tim Scott, Council President, South Bend Common Council
County-City Building
227 W. Jefferson Blvd
South Bend, IN 46601



RE: Bill No. 21-19 Animal Welfare-Substitute Bill

Dear Council President Scott:

Please find attached the substitute version for Bill No. 21-19 currently under consideration in the Health and Public Safety Committee. In this substitute bill, we have limited the scope of the ordinance to changes of name and to responsibilities of the Shelter Manger. These amendments will allow the Division to outwardly reflect the positive growth achieved over the last few years. Please note, many name changes must be made throughout all of Chapter 5 contributing to the length of the bill. The Title of the Bill 21-19 has also changed slightly to reflect the reduced subject matter.

The Department will address remaining changes to the ordinance in its entirety as time allows, while continuing to seek ways to improve and incorporate best practices for animal welfare management in close collaboration with the Animal Control Commission, Common Council, and our valued community members.

As indicated in my original cover letter filed July 2, 2019, I will present this substitute bill to the Council at its Committee meeting and regular evening meeting and may be accompanied by Assistant City Attorney Thomas E. Panowicz, and Jamie Morgan, Project Manager, Office of the Mayor.

Thank you for your assistance in this matter.

Sincerely,

Tracy Skibins

Cc: Karen White, Council Vice-President, Sixth District Representative
Jo M. Broden, Fourth District Representative, Committee Chair, Health & Public Safety

Substitute Bill No. 21-19

Filed in Clerk's Office

JUL 17 2019

KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, AMENDING VARIOUS ARTICLES AND SECTIONS OF CHAPTER FIVE
OF THE SOUTH BEND MUNICIPAL CODE, GENERALLY KNOWN AS THE
RESPONSIBLE ANIMAL AND PET OWNERSHIP CARE AND CONTROL
REGULATIONS, BY UPDATING ENTITY NAME DEFINITIONS AND MANAGER
RESPONSIBILITIES**

STATEMENT OF PURPOSE AND INTENT

Since 2016, the Animal Care and Control Division of the Department of Code Enforcement has continued to excel in services that save and enhance the lives of animals in our community. Animal adoption has soared from 261 placements in 2016 to 652 in 2018. Pet licensing has grown to 1,671 licenses issued in 2018, an increase of almost 1,000 more than were sold in 2016. The staff has embraced a culture of community care that has driven up to these indicators of success. The City wishes to rename and rebrand this Division to signal its continued positive direction.

To best reflect the mission and vision of animal services on behalf of the City of South Bend, this ordinance updates various Articles and Sections of Chapter 5 of the South Bend Municipal Code: Responsible Animal and Pet Ownership Care and Control Regulations. These amendments are appropriate to reflect this change in mission, vision, and name, as follows:

- The mission of the South Bend Animal Resource Center ("SBARC") is to prevent animal cruelty and abandonment by promoting responsible, caring and compassionate attitudes towards animals.
- SBARC's vision is to serve the South Bend community with programs and services that improve the welfare of animals. With the motto "Open Door ~ Open Heart", SBARC offers resources for animal care, supplies, education, leisure, and training.

Additional amendment to the ordinance incorporates best practices for animal welfare personnel management. Revising the job description for the SBARC Manager will provide a more comprehensive understanding of the role and the Manager's accountability in developing operational policy.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of South Bend, as follows:

SECTION I. Chapter 5, Article 1, Section 5-2 (f), (g), (bb), (ooo) and (rrr) of the South Bend Municipal Code definitions are each hereby deleted entirely and replaced with revisions to read as follows:

(f) ~~Animal Control Welfare Commission~~ ~~the Animal Control Commission shall be~~ means an advisory Commission as established in eDivision III of this eChapter. This was previously known as the Animal Control Commission.

(g) ~~Animal Control Welfare Officer~~ means a person authorized to carry out the provisions of this chapter, also referred to as AWO. This was previously known as Animal Control Officer.

(bb) ~~Division of Animal Care and Control Welfare~~ means the municipally operated division, formerly known as the Division of Animal Care and Control, established for the purpose of animal control, care enforcement as used and disposition, as set forth in this chapter, described throughout this Article. It is operated by and under the direct supervision of the Director of the Code Enforcement Department and the Shelter Manager Resource Center Manager.

(ooo) ~~SBACC means South Bend Animal Care and Control, the body that acts with authority derived from the Division of Animal Care and Control. SBARC (South Bend Animal Resource Center) means the Resource Center and the Division of Animal Welfare.~~ The Resource Center is where the City shelters animals and the Division of Animal Welfare enforces the ordinances relating to the care, treatment and control of animals. This was previously known as SBACC or South Bend Animal Care and Control.

(rrr) ~~Shelter manager Resource Center Manager~~ means the Shelter Manager Resource Center Manager for the South Bend Animal Resource Center and Division Animal Care and Control. the Division of Animal Welfare. This was previously known as the Shelter Manager.

SECTION II. Chapter 5, Article 1, Section 5-2 of the South Bend Municipal Code is updated to refer to the revised definitions from Section I above, as follows:

Sec. 5-2. Definitions.

(ee) ~~Enforcement Authority~~ means law Enforcement Control Agencies and officers acting on their behalf and Animal Control and Care Officers Animal Welfare Officers sanctioned by the City of South Bend, St. Joseph County, or the State of Indiana.

(ii) ~~Foster home~~ means the physical location away from an animal shelter Resource Center providing temporary care to a foster animal.

(iii) ~~Quarantining authority~~ means the Department of Code Enforcement, Division of Animal Care and Control Division of Animal Welfare, its agents, employees and designees, acting under directives and regulations of the Health Department of St. Joseph County or the Indiana State Board of Animal Health (BOAH).

(mm) *Impoundment*^{8 [8]} means to seize and place ~~in to~~ into the Animal Shelter Resource Center for the City of South Bend, any animals found in violation of this chapter and/or Indiana law, or to temporarily house animals in protective custody due to disaster or other tragic event.^[9]

(tt) *Litter permit* means the permit required by any person who intentionally or unintentionally causes or allows the breeding of a litter of dogs or cats in a twelve-month period. Exception: if the parent animal(s) are altered within fourteen (14) weeks after giving birth or the parent animal(s) and the litter are relinquished to ~~SBACC~~ SBARC within fourteen (14) weeks after birth of the litter, all permit requirements shall be waived.

(fff) *Protective custody impound* means to seize and place ~~in to~~ into the Animal Shelter Resource Center for the City of South Bend, any animals due to disaster or other tragic event.

(vvv) *Stray* means any animal that is not under restraint and/or upon reasonable inquiry by an ~~animal control officer~~ Animal Welfare Officer does not appear to have an owner. This section does not apply to free-roaming and/or community cat(s) as defined in this chapter.

SECTION III. Chapter 5, Article 3, and all or certain subparts of Sections 5-16, 5-20, 5-22, 5-36, 5-37, 5-38, 5-39, 5-40, 5-42, 5-43 and 5-44 of the South Bend Municipal Code are amended to read as follows:

Sec. 5-16. Medical and grooming care requirements.

- (b) Any animal deemed by the ~~SBACC~~ SBARC staff to require medical evaluation must be evaluated by a licensed veterinarian to maintain humane care. Any treatment necessary shall be at the discretion of the veterinarian. Proof of compliance must be provided.
- (c) Any owner keeping an animal requiring grooming deemed by ~~SBACC~~ SBARC staff to maintain humane standards of care must show proof such grooming has been completed.²⁴
[24]

Sec. 5-20. Urban chicken regulations.

- (a) Anyone desiring to raise one (1) or more urban chickens within the city limits must file an application for an Urban Chicken Permit with the ~~Division of Animal Care and Control~~ Division of Animal Welfare in the Department of Code Enforcement and pay an annual filing fee of twenty dollars (\$20.00), if provisions for the chickens are deemed acceptable after inspection by the ~~Division of Animal Care and Control~~ Division of Animal Welfare and the application is approved. If the application is approved, the owner/harbinger of the chicken(s) will receive a durable metal tag, which must be affixed in plain view to the chicken coop. At the end of each calendar quarter, the ~~Division of Animal Care and Control~~ Division of Animal Welfare shall provide to the Office of the City Clerk an electronic report summarizing: the residential street location, number of urban chickens at each such location, size of the chicken coop and size of the chicken pen for each location which has been issued such a permit. The ~~Division of Animal Care and Control~~ Division of Animal Welfare may deny or revoke a permit to any person who has failed or refused to comply with the permit requirements, who has made any fraudulent or false statement or material representation in the permit application or in connection with the keeping of urban chickens, who has violated a state or any provision

of ~~this~~ the South Bend Municipal Code in connection with the application or keeping of urban chickens or who has kept urban chickens or other animals in such a manner as to constitute a breach of the peace or a menace to the health, safety or welfare of the public. Upon denial or revocation of a permit, the Law Department shall provide notice to the permit applicant or holder and shall provide for a written appeal and hearing pursuant to the procedures in Section 4-16 of ~~this~~ the South Bend Municipal Code.

- (c) The Department of Code Enforcement shall be responsible for the enforcement of this ~~s~~Section. The Department of Code Enforcement shall comply with the duties which require the filing of a summary list of all warning notices and citations issued by the last Friday of each month with the Law Department, the Chairperson of the Health and Public Safety Committee, the Chairperson of the Residential Neighborhoods Committee, the Office of the City Clerk, and the ~~Animal Control Commission~~ Animal Welfare Commission.

Sec. 5-22. Fastening animals with rope or chain; choker collar.

- (e) *Multiple tangling during tethering.* If one (1) or more dogs at a residence have required a response from the ~~Division of Animal Care and Control~~ Division of Animal Welfare to untangle tethers more than two (2) times in one (1) year, it shall be a violation of this ~~s~~Section.

Sec. 5-36. Notification of injury caused by motor vehicle to animals required.

Any person operating a motor vehicle who causes injury or death to a domestic pet or large wild animal which may cause a public safety hazard shall stop at once, assess the extent of injury, and immediately notify the owner or ~~animal control shelter~~ Resource Center of the location of animal or call the police or emergency services after hours.

Sec. 5-37. Notification of lost or stray animals required.

- (a) Persons finding a stray animal are to notify the ~~Division of Animal Care and Control~~ Division of Animal Welfare within 24 hours (or within the next business day). At the discretion of the Division of Animal Welfare, the animal may be kept by the finder and a found report left with the ~~department~~ Resource Center, to enable the finder an opportunity to return the animal to its rightful owner.
- (b) Upon demand by the ~~Division of Animal Care and Control~~ Division of Animal Welfare, any found animal will be surrendered to the Division and held for three (3) business days, before a disposition is made.
- (d) With the exception of the ~~SBACC~~ SBARC, the finder will be considered the found animal's owner for the purposes of this chapter only after the animal is in the finder's custody for fifteen (15) continuous days and has been presented for microchip scanning.

Sec. 5-38. Potentially dangerous animals.

- (a) If an ~~animal control officer~~ Animal Welfare Officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that an animal is potentially dangerous or vicious, the ~~Shelter Manager of South Bend Animal Care and Control (SBACC) Resource Center Manager of SBARC~~ shall request a hearing by the ~~Animal Control Commission~~ Animal Welfare Commission for the purpose of determining whether or not the animal in question should be declared potentially dangerous or vicious.
- (1) Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for finding probable cause shall be sworn to and verified by the complainant and shall be provided to the ~~Animal Control Commission~~ Animal Welfare Commission.
 - (2) The hearing will be held within ten (10) calendar days at a special meeting of the ~~Animal Control Commission~~ Animal Welfare Commission and shall be open to the public. ^{29 [29]}
 - (4) The ~~Shelter Manager of South Bend Animal Care and Control (SBACC) Resource Center Manager of SBARC~~ shall notify the owner/guardian of the animal of the date and time of such hearing, at which time he or she may present evidence as to why the animal should not be declared potentially dangerous or vicious.
 - (5) The ~~Animal Control Commission~~ Animal Welfare Commission may consider all relevant evidence, including incident reports, affidavits of witnesses, photographs and/or video media, and whether the incident reasonably indicates whether or not the animal in question is potentially dangerous and/or vicious in ordinary circumstances where the average person could not reasonably be expected to foresee and take measures to prevent injury.
 - (6) If the owner/guardian of the animal fails to appear at the hearing, the ~~Animal Control Commission~~ Animal Welfare Commission may find the owner/guardian in default, and all ownership rights of the animals shall be assumed waived.
 - (7)
 - b. An animal determined to be vicious shall be euthanized by the ~~South Bend Division of Animal Care and Control~~ South Bend Division of Animal Welfare when it is found by the ~~Animal Control Commission~~ Animal Welfare Commission that the release of the animal would create a significant threat to the public health, safety, and welfare.
 - c. If it is determined that an animal found to be vicious shall not be euthanized, the ~~Animal Control Commission~~ Animal Welfare Commission may impose reasonable conditions upon the ownership of the animal that protect the public health, safety and welfare, which are consistent with the chapter.
 - d. Decisions of the ~~Animal Control Commission~~ Animal Welfare Commission are subject to appeal to the Circuit Court of St. Joseph County. The Owner/Guardian of the animal(s) must do so within ten (10) calendar days, or they will waive their right to the appeal, and all decisions will be considered final. The Owner/Guardian must also notify the ~~Animal Control Commission~~ Animal Welfare Commission of their decision to appeal in writing, which will then be forwarded to the Law Department for the City of South Bend.

(b) If, upon investigation, it is determined by the ~~animal control officer~~ Animal Welfare Officer or law enforcement officer that probable cause exists to believe the animal in question poses an immediate threat to public safety, then the ~~animal control officer~~ Animal Welfare Officer or law enforcement officer may seize and impound the animal pending the hearing to be held pursuant to this section. The owner/guardian of the animal shall be liable to the City of South Bend ~~Division of Animal Care and Control~~ Division of Animal Welfare where the dog is impounded for the costs and expenses of keeping the animal, if the animal is later declared potentially dangerous or vicious.^{30 [30]}

(d)

(5) The enclosure shall be inspected and approved by the City of South Bend ~~Division of Animal Care and Control~~ Division of Animal Welfare prior to its usage for confinement.

(8) The animal must also be identifiable via a microchip implanted in to the skin of the animal, and such microchip number must be provided to the ~~Division of Animal Care and Control~~ Division of Animal Welfare.

(f)

(3) If the animal in question dies, or is sold or transferred, the owner/guardian shall notify the City of South Bend ~~Division of Animal Care and Control~~ Division of Animal Welfare of the changed condition and new location of the animal in writing within two (2) business days.

(4) Any violation of the above provisions and/or restrictions placed on the owner/guardian by the ~~Animal Control Commission~~ Animal Welfare Commission will result in immediate impoundment of the animal, fines to be issued in accordance with Section 5-106 of this chapter, and ownership rights in the animal be immediately waived. The ~~City of South Bend Animal Care and Control Resource Center~~ may also seek injunctive relief in a court of law against the owner/guardian and seek prohibition of ownership of animals for a time period deemed necessary by the court.

(5) An owner/guardian may submit one (1) request for reconsideration per year to the ~~Animal Control Commission~~ Animal Welfare Commission to have the designation of potentially dangerous or vicious removed from his or her animal.

b. The application must be filed with the City of South Bend ~~Division of Animal Care and Control~~ Division of Animal Welfare.

d. The ~~Animal Control Commission~~ Animal Welfare Commission has the authority to hear evidence, both pro and con, as to whether and why the designation should or should not be removed.

f. The ~~Animal Control Commission~~ Animal Welfare Commission may make a decision to remove or not to remove such designation.

Sec. 5-39. Biting animals; report; procedure. [31]

(a) ~~The~~ Owner or harbinger of any animal which has bitten a person or another animal must report the incident to the St. Joseph County Health Department and the ~~Division of Animal Care and Control~~ Division of Animal Welfare and immediately make the animal available for

quarantine. Upon receiving the report of a bite, ~~Department of Animal Care and Control~~ the Division of Animal Welfare will quarantine the animal for ten (10) days with the place of confinement to be in the discretion of the ~~Division of Animal Control~~ Division of Animal Welfare. During the quarantine period, the animal is to be securely confined and kept from contact with any other animal or person.

- (b) During the quarantine period, the owner must provide a current rabies vaccination certificate for his or her cat or dog that is being quarantined. If proof of vaccination cannot be supplied, the animal will be vaccinated by a veterinarian at the owner's expense before after release, and the owner must provide the ~~Animal Control Commission~~ Animal Welfare Commission with name, address and phone number of the veterinarian performing the rabies vaccination, which will be verified before the animal can be released to the owner. ^{32 [32]}
- (1) If the animal is quarantined at the ~~shelter~~ Resource Center, a microchip shall be implanted in it prior to its release from quarantine. The animal shall be registered for its life with the ~~Division of Animal Care and Control~~ Division of Animal Welfare. The cost of the implant shall be at the owner's expense before release.
- (2) If the animal is quarantined in a place other than the ~~shelter~~ Resource Center, as determined by the ~~Division of Animal Care and Control~~ Division of Animal Welfare, a microchip shall be implanted in it within thirty (30) days following the animal's release from quarantine. The animal shall be registered for its life with the ~~Division of Animal Care and Control~~ Division of Animal Welfare. The cost of the implant and registry shall be at the owner's expense.
- (c) No person other than an ~~Animal Control Officer~~ Animal Welfare Officer or veterinarian shall euthanize or cause to be euthanized any animal suspected of being rabid except in cases of immediate self-protection. If that occurs, the person will retain the body and immediately notify the ~~Division of Animal Care and Control~~ Division of Animal Welfare.

Sec. 5-40. Exotic animals and native wildlife.

- (f) *Costs* . The owner of any animal, which is impounded and/or euthanized or relocated under this ~~s~~Section, shall be held responsible for payment of any expenses so incurred by the ~~Division of Animal Care and Control~~ Division of Animal Welfare. Fees will be paid prior to release or relocation of the animal.

Sec. 5-42. Destruction of animals.

- (a) All animals impounded by ~~South Bend Animal Care and Control~~ Resource Center, a public or private sheltering agency or rescue group shall be euthanized, only when necessary and consistent with the requirements of this ~~e~~Chapter by lethal intravenous injection of sodium pentobarbital, except as follows:
- (b) No person other than a duly authorized agent of the ~~animal control shelter~~ Resource Center may euthanize any domestic animal within the ~~e~~City limits; provided, however, this provision shall not apply to the following:

- (c) The ~~Division of Animal Care and Control~~ Division of Animal Welfare, other animal shelters, and/or public animal facilities which destroy animals in the eCity, shall use only sodium pentobarbital or a derivative substance for said purpose.
- (d) The duly authorized ~~animal control~~ Resource Center agent(s) must be trained in humane procedures by a licensed veterinarian or a registered veterinary technician and shall perform the destruction of animals in a humane manner as specified by the American Veterinary Medical Association AVMA's Guidelines for Euthanasia. ^{35 [34]} Said person(s) must have a letter from a licensed veterinarian citing ~~their~~ such person's competency in humane euthanasia procedures and must be evaluated by a licensed veterinarian on a yearly basis.

Sec. 5-43. Habitual animal offender.

- (b) If upon investigation by an ~~Animal Control Officer~~ Animal Welfare Officer it is found that an owner and/or harborer meets the definition of a Habitual Offender, the matter will be set for hearing before the ~~Animal Control Commission~~ Animal Welfare Commission.
- (c) If such owner and/or harborer is found to be a habitual animal offender the ~~Animal Control Commission~~ Animal Welfare Commission may order a limit, restriction, or prohibition against animal ownership for a minimum of five (5) years or more as determined by the ~~Animal Control Commission~~ Animal Welfare Commission based on the totality of the circumstances of the violations observed.

Sec. 5-44. Free roaming cat trap-neuter return regulations.

- (c) The ~~Division of Animal Care and Control~~ Division of Animal Welfare, or a community cat caretaker or a trap/neuter return organization, in order to encourage the stabilization of the free-roaming cat population may:
 - (3) Release the cat to the ~~Division of Animal Care and Control~~ Division of Animal Welfare for adoption or other disposition in accordance with law, or to a colony caretaker who will maintain the cat as part of a managed colony of community cats. The Ccat must be returned as close as possible to its location of capture unless illness or injury presents imminent danger to the animal.
- (d) Traps discovered by the ~~Division of Animal Care and Control~~ Division of Animal Welfare to have been unlawfully set may be seized.

SECTION IV. Chapter 5, Article 4, and all or certain subparts of Sections 5-54 and Section 5-55 of the South Bend Municipal Code are amended to read as follows:

Sec. 5-54. Appeals; re-inspections; denials or revocation of permit.

- (b) The permit holder may request a re-inspection for permit reinstatement based on compliance or may appeal the SBACC SBARC revocation. All requests for appeals must be in writing and addressed to the ~~Animal Control Commission~~ Animal Welfare Commission; whereupon,

the Commission shall set the appeal for hearing within forty-five (45) days of the receipt of the written request.

- (c) Upon re-inspection by ~~SBACC~~ SBARC following an appeal, a permit reinstatement fee of fifty dollars (\$50.00) will be required prior to reopening.

Sec. 5-55. Redemption of impounded animals seized for permit denials, suspensions or revocation.

- (a) When the re-inspection indicates full compliance that the conditions that caused the denial, suspension or revocation have been corrected, the permit shall be restored and impounded animals that are in the care of ~~SBACC~~ SBARC at the time of full compliance may be redeemed.
- (b) Animals seized will be impounded by ~~SBACC~~ SBARC for no less than five (5) business days. After five (5) business days, seized animals will be considered unredeemed unless the ~~SBACC~~ SBARC and the licensee whose permit was denied, suspended, or revoked reach an agreement regarding the housing and care of the seized animals for the period in which the licensee is working to correct the conditions that caused the denial, suspension or revocation.
- (c) Any animal remaining unredeemed after the prescribed holding period shall at once become the property of ~~SBACC~~ SBARC.

SECTION V. Chapter 5, Article 5, and certain subparts of Sections 5-60, 5-61, 5-62, 5-65 and 5-68 of the South Bend Municipal Code are amended to read as follows:

Sec. 5-60. Kennel/cattery permit regulations.

- (a)(1) a. Initial application eligibility requires no more than three (3) unaltered pets, no outdoor housing in the absence of the owner, suitable exercise space for the breed and number owned, no history of violations with ~~SBACC~~ SBARC, and all animals current on vaccinations.
- (c) *Grandfather Clause.* Animals owned or harbored and exceeding the ownership limits of this ~~s~~Section at the time of passage of this law may be registered with the ~~Division of Animal Care and Control~~ Division of Animal Welfare within ninety (90) days of passage to be exempted from ownership limits. Animals owned or harbored in excess of these limits and not registered within this time frame will not be considered exempt

Sec. 5-61. Major breeders permit.

- (a) A major breeder's permit shall be obtained by:
 - (2) Any person who offers for sale, sells, trades, receives other compensation or gives away more than one (1) litter of dogs or cats in a 12-month period; excepting a litter of dogs or cats taken to the ~~Department of Animal Control~~ Division of Animal Welfare.
- (b) Such person shall:

- (2) Furnish the ~~Department of Animal Control~~ Division of Animal Welfare with information on the birth of each litter of dogs or cats as may be required by ~~Division of Animal Care and Control~~ the Division of Animal Welfare to register that litter of dogs or cats with ~~Division of Animal Care and Control~~ the Division of Animal Welfare, and to be assigned a litter number for each litter; and
- (3) Further be required to register with the ~~Division of Animal Care and Control~~ Division of Animal Welfare the name, address, and telephone number of each buyer or new owner of any dog or cat sold or transferred within five (5) days after the date of such sale or transfer; and
- (5) Immunize all cats and dogs offered for sale, trade or other compensation or for free giveaway (except an animal taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare) against common disease; in the case of dogs, against canine distemper, adeno-virus parainfluenza, parvovirus, coronavirus, and leptospirosis, and in the case of cats, against feline rhinotracheitis, and panleucopenia; and
- (6) Not offer a puppy or kitten under the age of ten (10) weeks for sale, trade, other compensation or for free giveaway (except a puppy or kitten or litters of them taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare); and

Sec. 5-62. Minor breeders permit; sale of underage animal prohibited.

- (a) A minor breeder's permit shall be obtained by:
 - (2) Any person who offers for sale, sells, trades, receives other compensation or gives away any litters of dogs or cats; excepting a litter of dogs or cats taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare; or
 - (3) Any owner or person having custody of a dog or cat that has delivered a litter or caused the delivery of a litter, who chooses not to relinquish the animal to the ~~Division of Animal Care and Control~~ Division of Animal Welfare and also chooses not to have the animal spayed or neutered shall cause the animal to be implanted with a microchip and to register this dog or cat within thirty (30) days of having received notice to accomplish this procedure from the ~~Division of Animal Care and Control~~ Division of Animal Welfare.
- (b) Such person shall:
 - (2) Not be allowed to offer for sale, sell, trade, receive other compensation or give away more than one (1) litter of dogs or one (1) litter of cats in a 12-month period; excepting a litter of dogs or cats taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare; and
 - (3) Furnish the ~~Division of Animal Care and Control~~ Division of Animal Welfare with information on the birth of each litter of dogs or cats as may be required by the ~~Division of Animal Care and Control~~ Division of Animal Welfare to register that litter of dogs or cats with the ~~Division of Animal Care and Control~~ Division of Animal Welfare, and to be assigned a litter number for each litter; and

- (4) Further be required to register with the ~~Division of Animal Care and Control~~ Division of Animal Welfare the name, address, and telephone number of each buyer or new owner of any dog or cat sold or transferred within five (5) days after the date of such sale or transfer; and
- (6) Immunize all cats and dogs offered for sale, trade or other compensation or for free giveaway (except an animal taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare) against common disease; in the case of dogs, against canine distemper, adeno-virus parainfluenza, parvovirus, coronavirus, and leptospirosis, and in the case of cats, against feline rhinotracheitis, and panleucopenia; and
- (7) Not offer a puppy or kitten under the age of ten (10) weeks for sale, trade, other compensation or free giveaway (except a puppy or kitten or litters of them taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare); and
- (c) Any owner or person having custody of a dog or cat which has been neutered within ten (10) weeks after giving birth to a litter or who turns the adult dog or cat over to the ~~Division of Animal Care and Control~~ Division of Animal Welfare within 10 weeks from the birth date of the litter, will be required to purchase a minor breeder permit at the rate of ten dollars (\$10.00).
- (d) Any owner or person having custody of a dog or cat which has delivered a litter, who chooses not to relinquish said animal to the ~~Division of Animal Care and Control~~ Division of Animal Welfare and also chooses not to have the animal neutered, will be required to purchase a minor breeder permit at the rate of one hundred dollars (\$100.00) plus any applicable kennel/cattery permit fee. The permit shall be issued provided all requirements of this chapter are met.

Sec. 5-65. Pet shop permit.

- (c) The pet shop permit holder shall be further required to register with the ~~Division of Animal Care and Control~~ Division of Animal Welfare the name, address, and telephone number of each buyer or new owner of any dog or cat transferred within five (5) days after the sale or transfer.
- (d) The ~~Animal Control Officer~~ Animal Welfare Officer or County Health Department of St. Joseph County may restrict the sale of any animal suspected of being diseased or otherwise unfit for sale. An examination by a licensed veterinarian may be requested at the expense of the enforcement agency. The ~~Animal Control Officer~~ Animal Welfare Officer may seize the animal to ensure and protect the health and safety of any other animals present and/or the public.
- (f) No puppy or kitten under the age of eight (8) weeks may be offered for sale, trade or other compensation or for free giveaway (except a puppy or kitten, or litter or litters taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare).

Sec. 5-68. Exceptions for Division of Animal Welfare and animal welfare organizations.

No permit shall be required of the ~~Division of Animal Care and Control~~ Division of Animal Welfare or animal welfare organization; however, all other provisions of this chapter shall apply and such organizations are subject to inspection.

SECTION VI. Chapter 5, Article 6, Section 5-77 of the South Bend Municipal Code is amended to read as follows:

Sec. 5-77. Sale of puppies and kittens.

A puppy or kitten must be at least ten (10) weeks old and weaned before it may be offered for sale, traded, or given away for other compensation or for giveaway (except a puppy or kitten or litter or litters may be surrendered to the ~~Division of Animal Care and Control~~ Division of Animal Welfare.)

SECTION VII. Chapter 5, Article 7 Section 5-86, subparts (a), (b), (c) and (d) of the South Bend Municipal Code are amended to read as follows:

Sec. 5-86. Euthanizing animals.

- (a) All animals impounded by ~~South Bend Animal Care and Control~~ the Resource Center, a public or private sheltering agency or rescue group shall be euthanized; only when necessary and consistent with the requirements of this ~~a~~Article, by lethal intravenous injection of sodium pentobarbital, except as follows:
- (b) No person other than a duly authorized agent of the ~~Division of Animal Care and Control~~ Division of Animal Welfare may euthanize any domestic animal within the ~~e~~City limits; provided, however, this provision shall not apply to the following:
- (c) The ~~Division of Animal Care and Control~~ Division of Animal Welfare, other animal shelters, and/or public animal facilities which euthanize animals in the city, shall use only sodium pentobarbital or a derivative substance for said purpose.
- (d) The duly authorized ~~animal control~~ Resource Center agent(s) must be trained in humane procedures by a licensed veterinarian or a registered veterinary technician and shall perform the animal euthanization in a humane manner as specified by the AVMA's Guidelines for Euthanasia and shall use only sodium pentobarbital or a derivative substance for said purpose.

SECTION VIII. Chapter 5, Article 8, Division 1, Section 5-90 of the South Bend Municipal Code is hereby amended to read as follows:

DIVISION 1. - ~~SHELTER~~ RESOURCE CENTER MANAGER

Sec. 5-90. Duties of ~~shelter~~ Resource Center ~~m~~Manager.

- (a) The Division of Animal Care and Control Welfare shall be operated by the Shelter Resource Center Manager.
- (b) The Shelter Resource Center Manager will be advised on matters of policy by the Animal Control Welfare Commission.
- (c) The duties and powers of the ~~Director~~ Shelter Resource Center Manager are as follows:
- (1) To ~~cause to be enforced~~ ensure that all city ordinances and/or state laws regarding animal care and control ~~are enforced~~.
 - (2) To ~~maintain and operate the Division of Animal Care and Control's shelter which have been designated for the humane sheltering or protection and disposition of animals into its custody~~ manage the Resource Center's operations.
 - (3) To purchase all necessary materials for the proper and efficient performances of the services and work required of the ~~shelter~~ Resource Center consistent with the eCity's established purchasing procedures.
 - (4) ~~To cause to be picked up and transported to SBACC all unwanted animals, all animals illegally at large, and all sick, diseased, injured, lost, strayed, stolen or abandoned animals. Those animals whose owners request be euthanized may be surrender the animal to SBACC. The Shelter Manager shall determine if the animal can be saved. In addition, any animal whose illness would pose a health hazard to other animals or is injured so that it cannot rest comfortably for a minimum of three business days may be destroyed immediately as so authorized by the Shelter Manager or his/her authorized agent. If a possible owner is identified, the agencies shall undertake reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal. These efforts shall include, but are not limited to, notifying the possible owner by telephone, mail, and personal service to the last known address. Upon the owner's or caretaker's initiation of recovery procedures, the agencies shall retain custody of the animal for five (5) business days to allow for completion of the recovery process. All other animals shall be kept at said shelter or place designated by said shelter for a period of not less than three (3) business days to afford owners the opportunity to claim the animal. After such period of time, unclaimed animals shall be placed in a suitable home, retained at the shelter or released to an accepted rescue organization or euthanized. Animals released to the shelter by their owners, or impounded animals not claimed within the legal time become the property of the shelter and disposition may be made in accordance with the criteria outline in this chapter. SBACC shall not ban, bar, limit or otherwise obstruct the adoption or transfer of any animal based on breed, breed mix, age, color appearance or size.~~
 - (5) ~~To ensure that no savable animal at South Bend Animal Care and Control shall be euthanized simply because the holding period has expired. Before an animal is euthanized,~~ To ensure that no savable animal at South Bend Animal Care and Control shall be euthanized all of the following conditions must be met:
 - a. ~~There are no empty cages, kennels, or other living environments in the appropriate area of the shelter, keeping in mind the overall health and wellbeing of the animals in SBACC's care;~~

- b. — The animal cannot share a cage or kennel with another animal;
 - c. — A foster home is not available;
 - d. — Not for profit animal rescue organizations are not willing to accept the animal;
 - e. — The animal is not an ear tipped community cat that has been spayed/neutered and vaccinated as described in Section 5-32 of this Chapter or the animal is not a free roaming cat subject to sterilization and release into an accepted program;
 - f. — All mandates, programs and services of the Chapter have been met; and
 - g. — The director of the agency certifies he or she has no other alternative.
- (6) — SBACC shall take appropriate action to ensure that all animals are checked for all currently acceptable methods of identification, including microchips, identification tags, and licenses. SBACC shall maintain continuously updated lists of animals reported lost, and match these lost reports with animals reported found and animals in the shelter. If a possible owner is identified, the agencies shall undertake reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal. These efforts shall include, but are not limited to, notifying the possible owner by telephone, mail, and personal service to the last known address. Upon the owner's or caretaker's initiation of recovery procedures, the agencies shall retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact an owner or caretaker, and communications with persons claiming to be owners or caretakers, shall be recorded and be made available for public inspection for no less than three (3) years by submitting a completed Public Records (APRA) Request.^{39[38]}
- (7) — To direct Animal Control Officers proceed upon public and private property in accordance with the above criteria, in pursuit of animals believed to be in violation of this Chapter. However, this authority does not extend to a privately owned structure or enclosure without the consent of the owner, lessee or other occupant in control of the premises or without other legal process or authority. Any animal pursued under this section may be confiscated and held by the Division of Animal Care and Control according to its rules and regulations. If an animal is confiscated without the knowledge or consent of the owner or occupant of the premises, a notice shall promptly be affixed to said premises in an obvious location, directing the occupant to contact the Division of Animal Care and Control providing the address and telephone number of same on said notice.
- (8)(4) To cause to be investigated all reports and complaints that are significant concerning any inhumane treatment or negligent practices pertaining to animals and to submit a written report that includes the disposition of the complaint and condition of the animal to be reviewed by the Animal Control Commission. To cause to be impounded at the Division of Animal Care and Control or suitable places designated by the Division of Animal Care and Control all animals found in conditions adverse to their health and safety. To assist all law enforcement agencies in animal related investigations.
- (9)(5) To enter into contract with any municipalities or governmental units or any person, association or corporation for the collection, transportation, sheltering and disposal by

~~said shelter for sick, diseased, injured, illegally at large, lost, strayed or abandoned animals provided that no such services be extended by said shelter outside the city, except under written contract with the unit, person, association or corporation concerned and at a charge based upon the actual cost of such services, including overhead; provided that no such contract shall be effective except upon the approval of city attorney or a duly designated associate, as to form and legality, the approval of the Mayor, and the ratification by the Common Council evidenced by adoption of a resolution. To establish partnership with other municipalities and animal rescues as necessary and appropriate.~~

- (10)(6) To ~~employ~~ hire and supervise all personnel necessary for the efficient performance of the duties required of ~~said shelter~~ the Resource Center and Division of Animal Welfare. ~~And require certification of all Animal Control Officers as per state recommendations.~~
- ~~(11)(7)~~ To prepare and submit, after review and comments of the ~~Animal Control Welfare Commission,~~ to the South Bend Common Council through the City Controller, an annual budget, for its financing of its operations and performance of its duties.
- ~~(12)(8)~~ To submit to the Mayor, the Board of Public Safety, and to the Common Council, ~~no later than January 30 of each year,~~ provide the Director with a report of its activities and operation for the prior year, to be submitted with the Department of Code Enforcement's annual report. The Director will submit this to the Mayor's office and the City Clerk by the assigned date.
- ~~(13)(9)~~ — ~~To establish reasonable fees to be charged to persons reclaiming and adopting animals, and to collect such fees, such fees to be adopted only after approval by Director and submission to the Mayor and Common Council for approval and adoption. To work with the Director and Director of Finance for the Department of Code Enforcement to create and maintain the Division of Animal Welfare annual budget and fee schedule. These fees are to be reasonable and are to be charged for services provided by the Resource Center.~~
- (14)(10) To prepare monthly reports for the Animal Control Welfare Commission ~~quarterly reports~~ on performance, operation and intake/outtake metrics including adoption, rescue transfer and euthanasia and any other statistics that the Animal Control Welfare Commission may request.
- (15)(11) To ~~provide~~ ensure that all dogs and/or cats released for adoption shall be spayed or neutered, implanted with an electronic microchip, and provisions made for a program to monitor said spay/neuter and microchip plan.
- (16)(12) To ensure that ~~A~~ny violations of the animal adoption contract shall result in impoundment of the animal. Return of the animal to the adopter will be at the discretion of the ~~Division of Animal Care and Control~~ Resource Center Manager.
- (17)(13) ~~Shall~~ To adopt internal rules and regulations as may be necessary or appropriate in its judgment to carry out the provisions of the ordinances and laws under which it exists and performs its functions, including Standard Operating Procedures (SOP) for the internal operations of the Resource Center and Division of Animal Care and Control Welfare.

(14) To cooperate with the Legal Department of the City regarding legal matters under this Chapter, such as hearings, appeals and search warrants.

(15) To work with approved nonprofits for the benefit of the Resource Center.

(16) To provide training opportunities and continuing education for all staff

(17) To enter into reciprocity agreements with other cities, counties, and states to report owners or harborers with a violation history of animal regulations that move out of or into the City.

(Ord. No. 10309-14, § I, 5-28-14)

Footnotes:

—(38)—

State Law reference—³⁹ IC 5-14-3-1 through IC 5-14-3-10 sets for Indiana's "Access to Public Records" state law.

SECTION IX. Chapter 5, Article 8 and certain subparts of Division 2, Animal Control Commission, Sections 5-95, 5-96, and 5-97 of the South Bend Municipal Code are amended to read as follows:

~~DIVISION 2. - ANIMAL CONTROL COMMISSION~~ ANIMAL WELFARE COMMISSION

~~Sec. 5-95. Animal control commission~~ Animal Welfare Commission established; membership.

(a) A five-member ~~Animal Control Commission~~ Animal Welfare Commission is established.

(c) This selection shall not be based on political affiliations, but on interest in animal ~~care and control~~ welfare and knowledge of same.

~~Sec. 5-96. Officers; meetings and meeting minutes of the animal control commission~~ Animal Welfare Commission.

(a) The first meeting of the Commission shall be convened by the ~~Shelter Manager~~ Resource Center Manager. The Commission must meet for the first time within thirty (30) days of the effective date of this Chapter. The Commission shall elect a Chair, Vice-Chair, and a Secretary from among its members.

(c) Three (3) members of the ~~Animal Control Commission~~ Animal Welfare Commission shall constitute a quorum to do business.

(d) Copies of all ~~Animal Control Commission~~ Animal Welfare Commission agendas shall be electronically sent to the Law Department, ~~Division of Animal Care and Control~~ the Division

of Animal Welfare, the Office of the City Clerk, and the Chairpersons of the Council's Health and Public Safety Committee and Residential Neighborhoods Committee.

- (e) Meeting minutes of all ~~Animal Control Commission~~ Animal Welfare Commission meetings shall be maintained and regularly posted on the City's website for the ~~Division of Animal Care and Control~~ Division of Animal Welfare with electronic copies being sent to the ~~Shelter Manager~~ Resource Center Manager, the Law Department, the Office of the City Clerk, and the Chairpersons of the Council's Health and Public Safety Committee and Residential Neighborhoods Committee.

--- (39) ---

Note— The Indiana Open Door Law requiring a minimum of 48-hour notice applies to all meetings of the ~~Animal Control Commission~~ Animal Welfare Commission pursuant to IC 5-14-1.5-5.

Sec. 5-97. Duties and responsibilities of the ~~animal control commission~~ Animal Welfare Commission.

The ~~Animal Control Commission~~ Animal Welfare Commission shall have the following duties and responsibilities:

- (1) To receive and review recommendations made by the ~~Shelter Manager~~ Resource Center Manager;
- (6) Such determinations shall be reduced to writing with the original of the same being maintained by the City and copies being sent to the person or persons filing an appeal, with copies also being maintained in the ~~Division of Animal Care and Control~~ Division of Animal Welfare. Electronic notification of such determinations shall be sent to all ~~Animal Control Officers~~ Animal Welfare Officers and the South Bend Police Department.

SECTION X. Chapter 5, Article 8 and all or certain subparts of Division 3, Implementation and Enforcement, Sections 5-105 through 109 inclusive, and Section 5-111 of the South Bend Municipal Code are amended to read as follows:

Sec. 5-105. Interfering with enforcement.

No person shall interfere with an ~~Animal Control Officer~~ Animal Welfare Officer in the pursuit of his/her duties as an officer.

Sec. 5-106. Impoundment.

- (a) Animals found in cruel, abusive or neglectful situations, animals trained, bred or kept for the purpose of animal fighting, animals considered potentially dangerous, animals abandoned as a result of owner arrest, or animals that have been abandoned may be promptly seized, provided, however, that the ~~Animal Control Officer~~ Animal Welfare Officer shall leave written notice.

- (b) Animals so removed will be impounded and held at the ~~Division of Animal Care and Control~~ Division Animal Welfare or a designated facility, provided, however, that in no event shall this period exceed five (5) calendar days, at which time the animal shall become the property of the ~~Department of Animal Control~~ Division of Animal Welfare. An animal may be held longer if an extension is necessary for the ~~Animal Control Officer~~ Animal Welfare Officer to have ample time to prepare a court case if prosecution is warranted, or a request for a bond has been filed as provided in paragraph (e) of this section. In the case of animals impounded for quarantine at the ~~Division of Animal Care and Control~~ Division of Animal Welfare, the animal will become the property of the Division if not claimed by closing time of the Division on the eleventh (11th) day of the quarantine....
- (c) Animals impounded for reasons of tragedy beyond the control of the owner, such as but not limited to house fire or death of the owner, will be held for seven (7) calendar days during which time a reasonable effort will be made to contact the owner and/or their representative to ~~make~~ reclaim or make alternative housing arrangements. After the seventh (7th) day of impoundment, the animals will become the property of the ~~Division of Animal Care and Control~~ Division of Animal Welfare.
- (d) Animals awaiting disposition by the courts shall remain in the custody of the ~~Division of Animal Care and Control~~ Division of Animal Welfare, unless such disposition is made, or placed in a foster home until legal arrangements have been completed.
- (e) Pursuant to impoundment of an animal under paragraph (a) of this section, the ~~Division of Animal Care and Control~~ Division of Animal Welfare may file a petition with the court requesting that the owner or custodian of the animal post a bond to cover the costs of care of the animal while it is in the custody of the Division.
- (2)
- a. Bond must be posted within a maximum of three (3) business days following the bond hearing judgment. If bond has not been posted within the allotted three (3) business days, the animal shall immediately become the property of the ~~Division of Animal Care and Control~~ Division of Animal Welfare.
- b. Bond must be posted at the ~~Division of Animal Care and Control~~ Division of Animal Welfare in cash or certified funds only. The bond shall be deposited into the budget for the ~~Division of Animal Care and Control~~ Division of Animal Welfare, in a subaccount specific for each case. The Division may draw on this account to cover the actual expenses incurred in the care of the animal.
- d. Upon conviction of the accused, the court or hearing body, at its discretion may order any remaining bond money and/or the animal(s) forfeited to the ~~Division of Animal Care and Control~~ Division of Animal Welfare.
- (4) This section applies to any and all animals housed at the ~~South Bend Division of Animal Care and Control Shelter Resource Center~~, or under the direction of the ~~South Bend Division of Animal Care and Control~~ Division of Animal Welfare at a remote facility, irrespective of the agency that seized the animals.

....

- (6) When a community cat is captured, such animal need not be impounded but may be returned to its owner or community cat caretaker if, in the opinion of the ~~animal care and control officer~~ Animal Welfare Officer, the return would not present a danger to the public, continued or repeat public nuisance, or otherwise result in a violation of this eChapter.

Sec. 5-107. Notice to owner.

(b)

- (3) Cooperation of effort with other governmental and private agencies, such as the Humane Society of St. Joseph County or other humane and/or breed rescue organizations recognized by the ~~animal care and control division~~ Division of Animal Welfare.

Sec. 5-108. Redemption.

- (a) A person may reclaim an animal in the custody of the ~~Division of Animal Care and Control~~ Division of Animal Welfare upon providing the following:
- (2) Payment of redemption fee and any other service/medical fees, as approved by the ~~Shelter Manager~~ Resource Center Manager.
- (3) It shall be mandatory that any dog or cat not displaying a current city pet registration or current identification tag if not a city resident, affixed to its collar, after the effective date of this eChapter, upon its redemption by its owner, and prior to its release by the ~~Division of Animal Care and Control~~ Division of Animal Welfare, be implanted with a microchip and registered for purposes of identification and recovery....
- (b) Stray or at-large animals will be held three (3) business days at the ~~Division of Animal Care and Control~~ Division of Animal Welfare.
- (c) Unclaimed animals become the property of the ~~Division of Animal Care and Control~~ Division of Animal Welfare and may be placed for adoption, transferred to rescue or humanely euthanized, pursuant to Section 5-106.

Sec. 5-109. Inspections and entry on property.

- (a) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this eChapter or when there is probable cause to believe that there exists in any building or upon any premises any violation of the provisions of this eChapter or State law, the ~~Animal Control Officer~~ Animal Welfare Officer or Health Officer or police officer is authorized at all reasonable times to inspect the same for compliance with the provisions of this eChapter or any state law; provided that:
- (b) In the event the ~~Animal Control Officer~~ Animal Welfare Officer, County Health Officer or his or her designee or police officer has probable cause to believe that the keeping or maintaining of an animal is so hazardous, unsafe or dangerous as to require immediate

inspection to safeguard the animal or the public health or safety, the officer shall first present proper credentials and request entry, explaining the reasons therefor....

Sec. 5-111. Penalties.

- (a) Violators shall be issued a citation and fined by a law enforcement officer or ~~animal control officer~~ Animal Welfare Officer as follows:
- (b) Upon finding of violations of this ~~eChapter~~, the City may seek injunctive relief through the court which may order relinquishment of an animal(s) deemed to be a public safety risk and/or a repetitive public nuisance that has not been abated or an animal that is a victim of cruelty, neglect, or abandonment, to the ~~Division of Animal Care and Control~~ Division of Animal Welfare for disposition.
- (c) In the event that an animal is retained at the ~~Division of Animal Care and Control~~ Division of Animal Welfare because its owner or harbinger has been in violation of this ~~eChapter~~, the person redeeming the animal by paying the prescribed fees shall also be required to pay the costs incurred by the ~~Division of Animal Care and Control~~ Division of Animal Welfare for impoundment and caring for including but not limited to:

SECTION XI. Chapter 5, Article 9 and certain subparts of Sections 5-121 and 5-123 of the South Bend Municipal Code are amended to read as follows:

Sec. 5-121. Permits and administration.

- (c) An application for a license or renewal of a license shall be made to the ~~Division of Animal Care and Control~~ Division of Animal Welfare. ... The horse shall be identified by breed, age, sex, color, markings, and the location of the stables where the horse is to be kept, recorded on a veterinary certificate provided by the ~~Division of Animal Care and Control~~ Division of Animal Welfare....
- (d) The annual fee per working animal license or renewal shall be one hundred dollars (\$100.00) for carriage horses and ten dollars (\$10.00) for riding horses, and shall be paid upon submission of an application to the ~~Division of Animal Care and Control~~ Division of Animal Welfare.
- (f) An owner or operator of a rental horse business shall keep an accurate daily record of the movement of each licensed horse when in the city limits including driver's name, horse's identification number, vehicle license plate number, time of leaving stable and time of return to stable. Such records shall be kept on the premises of the stable where rental horses are kept or maintained and shall be made available to the ~~Department Division of Animal Care and Control~~ Division of Animal Welfare upon request.
- (g) An owner or operator of a rental horse business shall make the stable (if located within the city limits) in which horses used in the rental business are kept open for inspection at all reasonable time by authorized personnel of the ~~Division of Animal Care and Control~~ Division of Animal Welfare to enforce the provisions of this ~~a~~Article.

Sec. 5-123. Regulations.

- (c) Certified weights of all horses and horse drawn vehicles shall be registered with the ~~Division of Animal Care and Control~~ Division of Animal Welfare annually. At the discretion of the ~~Division of Animal Care and Control~~ Division of Animal Welfare, when supported by the opinion of a consulting veterinarian, a rental horse within a business may be restricted in regard to pulling/riding capacity, based on individual characteristics and abilities.

....

- (k) Every horse whose use requires a license hereunder shall be examined by a veterinarian prior to its use in a rental horse business, and thereafter at intervals of not less than once a year. The horse shall be examined and treated for internal parasites. Its general physical condition shall be evaluated, which examination shall include but not be limited to, inspection of teeth, hooves, and shoes, and for its physical ability to perform the work or duties required of it. The examination shall also include a record of any injury, disease, or deficiency observed by the veterinarian at the time, together with any prescription or professional recommendation regarding humane correction or disposition of the same. An Indiana health certificate containing the above information and signed by the examining veterinarian shall be maintained at the stable premises at which such horse is located, and shall contain the identification number, age and condition of the horse., ~~W~~with a copy on file with ~~SBACC~~ SBARC.
- (l) The rental horse business shall take immediate action to obtain veterinary treatment, care and attention when any horse is or becomes sick, diseased, lame or injured. If a horse dies while at work or in the stable area, or is involved in an accident resulting in an injury to a horse, the ~~Division of Animal Care and Control~~ Division of Animal Welfare shall be notified immediately.
- (m) A horse covered by this subchapter which is or becomes lame or suffers from a physical condition or illness making it unsuitable for work shall be removed from work by the rental horse business or may be ordered removed from work by the ~~Division of Animal Care and Control~~ Division of Animal Welfare. In the event of a dispute regarding such physical condition or illness, the Division may require that a rental horse be examined by a veterinarian in order to determine its ability to safely work as a rental horse. The cost of any such examination shall be borne solely by the rental horse company. A horse which has been removed from work under this division shall not be returned to work until it has recovered from the condition which caused removal from work, or until such condition has improved sufficiently that its return to work will not aggravate the condition or otherwise endanger the health of the horse. A violation of this section shall be presumed if a horse is found at work in a sick or disabled condition within forty-eight (48) hours after its removal from work for the same condition which caused such removal. Such presumption may be rebutted by offering a written statement from a veterinarian who examined the horse after the time of removal from work but prior to its return to work, which statement sets out the veterinarian's professional evaluation of the condition and his/her opinion that it was suitable for the horse to return to work prior the expiration of the 48-hour period. This statement shall be carried with the horse

during the presumed 48-hour recovery period; and provided to the ~~Division of Animal Care and Control~~ Division of Animal Welfare upon request.

SECTION XII. This ordinance shall be in full force and effect of and from its date of passage, approval by the Mayor, and any publication required by law.

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

1200N COUNTY-CITY BUILDING
227 W. JEFFERSON BLVD.
SOUTH BEND, INDIANA 46601-1830



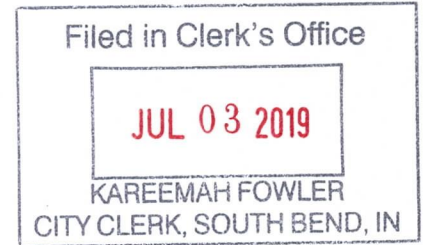
PHONE 574.235.9216
FAX 574.235.9928

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR

DEPARTMENT OF ADMINISTRATION AND FINANCE

July 2, 2019

Mr. Tim Scott, President
City of South Bend Common Council
227 W. Jefferson Boulevard, 4th Floor
South Bend, Indiana 46601



RE: Additional Appropriation Ordinance

Dear President Scott,

City administration is requesting a special additional appropriation outside of our normal, quarterly appropriation process. This special appropriation ordinance helps to address the condition of several City streets.

I will present this bill to the Common Council at the appropriate committee and council meetings. It is requested that this bill be filed for 1st reading on July 8, 2019 with 2nd reading, public hearing and 3rd reading scheduled for July 22, 2019.

Thank you for your attention to this request. If you should have any questions, please feel to contact me at 574-235-9822.

Regards,

A handwritten signature in blue ink, appearing to read "Daniel T. Parker".

Daniel T. Parker
City Controller

Handwritten initials "OK AD" in blue ink, located in the bottom right corner of the page.

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROPRIATING ADDITIONAL FUNDS FOR CERTAIN DEPARTMENTAL AND CITY SERVICES OPERATIONS IN 2019 OF \$500,000 FROM ECONOMIC DEVELOPMENT INCOME TAX (#408).

STATEMENT OF PURPOSE AND INTENT

Filed in Clerk's Office

JUL 03 2019

KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

The Common Council passed the City's 2019 operating and capital budgets in 2018 (Ordinance #10615-18 passed on October 8, 2018), which included expenditures for various City operations. It is now necessary to appropriate additional funds for operational and capital expenditures necessary for the City to effect provision of services to its citizens which were not anticipated at the time the City budget was adopted.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of South Bend, Indiana, as follows:

Section I. The following amounts are hereby appropriated in fiscal year 2019 and set apart within the following designated funds for expenditures as follows:

FUND	<u>Amount</u>
Economic Development Income Tax (EDIT) (#408)	<u>\$500,000</u>
TOTAL	<u><u>\$500,000</u></u>

Section II. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval of 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 _____, 2018, at _____ o'clock __ . m.

Deputy City Clerk

Approved and signed by me on the _____ day of _____, 2018, at
_____ o'clock __. m.

Mayor, City of South Bend, Indiana



City of South Bend Common Council

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

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

Filed in Clerk's Office

JUL 02 2019

KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

July 2, 2019

South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

Re: AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 6, ARTICLE 1, SECTION 6-4 OF THE SOUTH BEND MUNICIPAL CODE TO REQUIRE PAYMENT OF ALL PAST PERMIT AND INSPECTION FEES AND COMPLIANCE ALL APPLICABLE ZONING ORDINANCES PRIOR TO THE ISSUANCE OF A BUILDING PERMIT, EXCEPTING CERTAIN BUILDING PERMITS ISSUED IN ACCORDANCE WITH LAW PRIOR TO THE EFFECTIVE DATE OF THIS AMENDED ORDINANCE

Dear Council Members:

Under our current building permit ordinance, applicants are allowed to receive building permits even if they have past due building permit or inspection fees owing to the City. Fiscal responsibility requires these applicants to pay those past due fees prior to obtaining a new building permit.

More troubling, however, is the fact that applicants can receive building permits without any showing that the completed project will comply with applicable zoning ordinances. This is a classic example of putting the horse before the cart. The result is that the applicant often times must later apply for variances, special exception or zoning changes and risk that he receives an unfavorable recommendation and/or rejection by the Council. At best, even if those petitions are favorably acted upon, there is a waste of time and money in processing those petitions.

This amendment cures that problem. Under this amendment, an applicant must show that the completed project will comply with applicable zoning ordinances prior to obtaining a building permit.

Finally, this amendment "grandfathers" in building permits received prior to the effective date of the amended ordinance so long as certain conditions for completion are met. There will therefore be no prejudice to those who have acted under current law.

I request first reading at the July 8 Council meeting with second and third readings and public hearing at the July 22 meeting. I also ask for your support.



City of South Bend Common Council

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

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

Sincerely Yours,

Tim Scott, South Bend Common Council
President and 1st District Representative

Oliver Davis, 6th District Representative

Tim Scott
President

Karen White
Vice-President

John Voorde
Chairperson,
Committee of the Whole

Tim Scott
First District

Regina Williams-Preston
Second District

Sharon L. McBride
Third District

Jo M. Broden
Fourth District

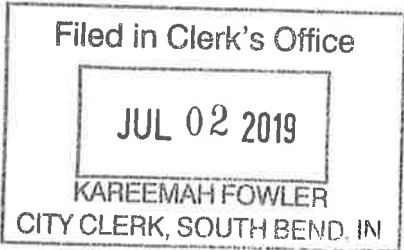
Jake Teshka
Fifth District

Oliver Davis
Sixth District

Gavin Ferlic
At Large

John Voorde
At Large

Karen White
At Large



BILL NO. 22-19

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 6, ARTICLE 1, SECTION 6-4 OF THE SOUTH BEND MUNICIPAL CODE TO REQUIRE PAYMENT OF ALL PAST PERMIT AND INSPECTION FEES AND COMPLIANCE ALL APPLICABLE ZONING ORDINANCES PRIOR TO THE ISSUANCE OF A BUILDING PERMIT, EXCEPTING CERTAIN BUILDING PERMITS ISSUED IN ACCORDANCE WITH LAW PRIOR TO THE EFFECTIVE DATE OF THIS AMENDED ORDINANCE

STATEMENT OF PURPOSE AND INTENT

Under the current structure of the ordinance providing for the issue of building permits, a permit may be issued to persons or entities that have past due building and/or inspection fees owed to the City. Financial responsibility requires that any such past due amounts be paid in full prior to the issuance of a building permit. This amendment requires such payment.

The current ordinance also allows the issuance of a building permit with no showing that the proposed project will be in compliance with all applicable zoning ordinances. This leads to the possibility that construction may begin and be substantially completed with no assurance that the proposed project will be permitted under the zoning ordinances. This results in a waste of time and money by either requiring changes in the construction and use of the proposed project and/or the filing and consideration of petitions seeking exceptions from the applicable zoning ordinances or for zoning changes. This amendment requires a showing that the proposed project, when completed, will comply with all applicable zoning ordinances.

Finally, in order to not prejudice any entity that has been issued a building permit under the ordinance prior to it being amended, this ordinance “grandfathers” in building permits issued under current law so long as certain conditions for completion are met.

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

SECTION I. Chapter 6 (Building), Article 1, Section 6-4 of the South Bend Municipal Code is hereby amended to read in its entirety as follows:

Sec. 6-4. Permit Fees

- (a) No person shall build or construct any new building or structure, or alter, repair, remodel, demolish, or move an existing structure, or install a sign, billboard, fence, in-ground pool, or wood burning stove within the City without obtaining, in advance, a permit from the Department.
- (b) Withhold issuance of permits.

1. Whenever a person who is either an applicant for a building permit or an obtainer of a building permit owes fees (including checks returned for insufficient funds, permit fees owed pursuant to the South Bend Municipal Code, or inspection fees owed pursuant to the South Bend Municipal Code) to the Building Department, the Building Commissioner shall withhold the issuance of subsequently requested permits until such time that the debt is satisfied.
2. Whenever a person applies for a building permit for a structure that is not being used or constructed in conformance with applicable provisions of an applicable zoning ordinance or other ordinance relating to land use, the Building Commissioner shall withhold the issuance of requested permits until such time that the property is brought into conformance with applicable ordinances.

(c) Permit revocation. The Building Commissioner may [shall] revoke a building permit when any of the following are applicable:

1. The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact.
2. The application, plans or supporting documents reflect a lack of compliance with building standards and procedures.
3. There is failure to comply with the Building Ordinance.
4. The structure for which the building permit has been issued is not being used or constructed in conformance with an applicable zoning ordinance or other ordinance relating to land use.

(d) Where a building permit for a building or structure has been issued in accordance with law prior to the effective date of the ordinance from which this section is derived, and provided that construction is begun within six months of the effective date and diligently prosecuted to completion, that building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued, and further may, upon completion, be occupied under a certificate of occupancy by the use for which originally designated, subject thereafter, if applicable, to the provisions herein for nonconforming buildings, structures, and uses.

(e) Unless otherwise provided in the Building Code, the fees to be charged for the issuance of permits by the Department shall be paid at the time the permit is issued.

(1) The fee for permits issued for residential and commercial new construction and building additions shall be based upon the following:

- a. Cost per Square Foot (CSF) times the total square footage (TSF) times the Local Variable Factor (LVF) of \$0.00098.
- b. Cost per square foot (CSF) shall be determined by the International Code Council Building Valuation Table in effect in January of each year.
- c. The cost per square foot (CSF) by occupancy classifications shall be amended as follows:
 1. Groups F-1, F-2, H-1, H-2, H-3, H-4, and M shall have the same rate as A-3.
 2. Groups I-4, R-2, and R-4 shall have the same rate as I-1.
 3. Groups S-1, S-2, and U shall have the same rate as R-3.

d. Minimum fee—Forty dollars (\$40.00).

(2) Permits issued for all alterations, repairs, remodeling of existing structures over five hundred dollars (\$500.00), fence installations, in-ground pool installations, communication towers, and utilities shall be subject to the following fee schedule:

<i>Estimated Construction Costs</i>	<i>Permit Fees</i>
\$1.00 to \$3,000.00	\$ 40.00
3,001.00 to 4,000.00.....	45.00
4,001.00 to 5,000.00	50.00
5,001.00 to 6,000.00	55.00
6,001.00 to 7,000.00	60.00
7,001.00 to 8,000.00	65.00
8,001.00 to 9,000.00	70.00
9,001.00 to 10,000.00	75.00
10,001.00 to 11,000.00	80.00
11,001.00 to 12,000.00	85.00
12,001.00 to 13,000.00	90.00
13,001.00 to 14,000.00	95.00
14,001.00 to 15,000.00	100.00
15,001.00 to 16,000.00	105.00
16,001.00 to 17,000.00	110.00
17,001.00 to 18,000.00	115.00
18,001.00 to 19,000.00	118.00
19,001.00 to 20,000.00	121.00
20,001.00 to 21,000.00	124.00
21,001.00 to 22,000.00	127.00
22,001.00 to 23,000.00	130.00
23,001.00 to 24,000.00	133.00
24,001.00 to 25,000.00	136.00
25,001.00 to 26,000.00	139.00
26,001.00 to 27,000.00	142.00

27,001.00 to 28,000.00	145.00
28,001.00 to 29,000.00	148.00
29,001.00 to 30,000.00	151.00
30,001.00 to 31,000.00	154.00
31,001.00 to 32,000.00	157.00
32,001.00 to 33,000.00	160.00
33,001.00 to 34,000.00	163.00
34,001.00 to 35,000.00	166.00
35,001.00 to 36,000.00	169.00
36,001.00 to 37,000.00	172.00
37,001.00 to 38,000.00	175.00
38,001.00 to 39,000.00	178.00
39,001.00 to 40,000.00	181.00
40,001.00 to 41,000.00	184.00
41,001.00 to 42,000.00	187.00
42,001.00 to 43,000.00	190.00
43,001.00 to 44,000.00	193.00
44,001.00 to 45,000.00	196.00
45,001.00 to 46,000.00	199.00
46,001.00 to 47,000.00	202.00
47,001.00 to 48,000.00	205.00
48,001.00 to 49,000.00	208.00
49,001.00 to 50,000.00	211.00
50,001.00 to 51,000.00	214.00
51,001.00 to 52,000.00	217.00
52,001.00 to 53,000.00	220.00
53,001.00 to 54,000.00.....	223.00
54,001.00 to 55,000.00	226.00
55,001.00 to 56,000.00	229.00
56,001.00 to 57,000.00	232.00

57,001.00 to 58,000.00	235.00
58,001.00 to 59,000.00.....	237.00
59,001.00 to 60,000.00	239.00
60,001.00 to 61,000.00	241.00
61,001.00 to 62,000.00.....	243.00
62,001.00 to 63,000.00	245.00
63,001.00 to 64,000.00	247.00
64,001.00 to 65,000.00	249.00
65,001.00 to 66,000.00	251.00
66,001.00 to 67,000.00	253.00
67,001.00 to 68,000.00	255.00
68,001.00 to 69,000.00	257.00
69,001.00 to 70,000.00	259.00
70,001.00 to 71,000.00	261.00
71,001.00 to 72,000.00	263.00
72,001.00 to 73,000.00	265.00
73,001.00 to 74,000.00	267.00
74,001.00 to 75,000.00	269.00
75,001.00 to 76,000.00	271.00
76,001.00 to 77,000.00	273.00
77,001.00 to 78,000.00	275.00
78,001.00 to 79,000.00	277.00
79,001.00 to 80,000.00	279.00
80,001.00 to 81,000.00	281.00
81,001.00 to 82,000.00	283.00
82,001.00 to 83,000.00	285.00
83,001.00 to 84,000.00	287.00
84,001.00 to 85,000.00	289.00
85,001.00 to 86,000.00	291.00
86,001.00 to 87,000.00	293.00

87,001.00 to 88,000.00	295.00
88,001.00 to 89,000.00	297.00
89,001.00 to 90,000.00	299.00
90,001.00 to 91,000.00	301.00
91,001.00 to 92,000.00	303.00
92,001.00 to 93,000.00	305.00
93,001.00 to 94,000.00	307.00
94,001.00 to 95,000.00	309.00
95,001.00 to 96,000.00	311.00
96,001.00 to 97,000.00	313.00
97,001.00 to 98,000.00	315.00
98,001.00 to 99,000.00	317.00
99,001.00 to 100,000.00	320.00
100,000 and up	320.00

Plus, per [one] thousand dollars (\$1,000.00) of estimated construction cost thereafter, up to one million dollars (\$1,000,000.00) total estimated construction cost 0.90

Plus, per one thousand dollars (\$1,000.00) of estimated construction costs thereafter 0.60

(3) Forty dollars (\$40.00) for each reinspection made by department inspectors of commercial and industrial projects.

(4) Sixty dollars (\$60.00) for each additional final inspection necessitated by the failure to pass the previous final inspection.

(5), (6) Reserved.

(7) Sign Permits. Fees shall be charged for the issuance of permits for the installation or erection of freestanding signs; billboards, including outdoor and off-premises signs; fascia signs; marquee or canopy signs and for lettering on buildings as follows:

- a. Under one (1) square foot or less of display area and embellishments: No fee;
- b. One (1) square foot to twenty-five (25) square feet of display area and embellishments: Forty dollars (\$40.00);
- c. Twenty-six (26) square feet to fifty (50) square feet of display area and embellishments: Sixty dollars (\$60.00);

- d. Fifty-one (51) square feet to one hundred (100) square feet of display area and embellishments: Eighty-five dollars (\$85.00);
- e. In excess of one hundred (100) square feet of display area and embellishments: One hundred twenty dollars (\$120.00);
- f. Temporary signs: Initial permit, Forty dollars (\$40.00); each extension of a temporary permit, Forty-five dollars (\$45.00).

(8) Wrecking and demolition permit fees shall be as follows:

a. Residential:

- 1. \$0.02 per square foot, with a minimum fee of Forty dollars (\$40.00).

b. Commercial:

- 1. \$0.015 per square foot, with a minimum fee of Forty dollars (\$40.00).

(9) Move any one- or two-story building over public streets or alleys: One hundred twenty-five dollars (\$125.00).

(10) Move any building greater than two (2) stories in height over public streets or alleys: One hundred seventy-five dollars (\$175.00).

(11) The fee for installation of a wood-burning stove shall be forty dollars (\$40.00) per flue (including chimney and chimney connector).

(f) The fees provided in this section shall not include permits for plumbing, heating or electrical installations covered by other provisions of this Code or other ordinances of the City.

(g) Refunds of fees paid for permits which have been revoked for any reason, or which have expired prior to full completion of work shall not be made; nor shall such fee be applied to reduce the fee of any subsequent permit issued by the Department, including any permit which may be issued for any structure at the same location.

(h) Where a person shall unlawfully proceed to do any work or construction without a required permit, the applicable permit fees shall be tripled as a penalty. The payment of such penalty shall not release the person in default from any other penalties hereafter provided, nor from compliance with any relevant provisions of the Building Code.

(i) The Building Commissioner shall periodically review the permit fees charged by the Department, comparing the fees to those charged by other local governmental entities and comparing the total annual fees collected to the annual cost of operating the Building Department. Such a review shall be made at least once every three (3) years. The Building Commissioner shall report the findings and conclusions from such review to the Common Council of the City.

SECTION II. Severability. If any provision of this Ordinance is found to be invalid, the remaining provisions of this Ordinance shall not be affected by such a determination. These other provisions of this Ordinance shall remain in full force and effect without the invalid provision.

SECTION III. Implementation Date.

The Building Commissioner shall apply this ordinance to all requests for building permits made after the date the amended ordinance becomes effective.

SECTION IV. This Ordinance shall be in full force and effect from and after the date of adoption by the City Council of the City of South Bend, St. Joseph County, Indiana.

Tim Scott, Council President
South Bend Common Council

Oliver Davis, 6th District Representative

Attest:

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

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 2019, at _____ o'clock ____ . m.

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

Approved and signed by me on the _____ day of _____, 2019, at ____ o'clock ____ .m.

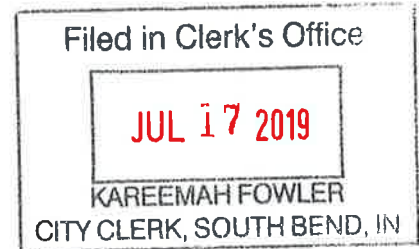
Pete Buttigieg, Mayor
City of South Bend, Indiana



City of South Bend Common Council

441 County-City Building • 227 W. Jefferson Blvd
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TDD (574) 235-5567
<http://www.southbendin.gov>



Tim Scott
President

Karen White
Vice-President

John Voorde
Chairperson, Committee
of the Whole

Tim Scott
First District

Regina Williams-Preston
Second District

Sharon L. McBride
Third District

Jo M. Broden
Fourth District

Jake Teshka
Fifth District

Oliver Davis
Sixth District

Gavin Ferlic
At Large

John Voorde
At Large

Karen White
At Large

July 17, 2019

South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

Re: AN ORDINANCE OF THE COMMON COUNCIL OF SOUTH BEND, INDIANA, AMENDING THE SOUTH BEND MUNICIPAL CODE BY REPEALING CURRENT CHAPTER 20, ARTICLE 13 AND THE INCLUSION OF NEW CHAPTER 20, ARTICLE 13, ENTITLED "REGULATIONS ON THE USE OF HAND-HELD MOBILE OR WIRELESS TELEPHONES, ELECTRONIC COMMUNICATIONS DEVICES AND TELECOMMUNICATIONS DEVICES WHILE DRIVING"

Dear Council Members:

As you know, the South Bend Municipal Code prohibits the use of many hand-held communication devices by drivers in school zones. Many studies, however, have determined that the problem with distracted driving, together with resultant property damage and personal injuries, is not limited to school zones, but exists on virtually every roadway.

This proposed ordinance repeals the current ordinance and, in its place, expands the regulations on the use of hand-held communication devices while driving on all roadways in South Bend. The proposed ordinance also creates very limited exceptions, primarily for police, fire and other first responders acting within the course and scope of their employment.

Distracted driving is a danger to everyone in the community, be it the distracted driver himself, other motorists using the roadway, pedestrians and all who are connected to anyone injured or killed. This proposed ordinance is a step in the right direction and within the jurisdiction of the Common Council to reduce distracted driving.

I am requesting that this proposed ordinance be given first reading at the Council meeting on July 22, 2019 with the public hearing and second and third readings at the following meeting.

I appreciate your support.

Sincerely Yours,

Gavin Ferlic, South Bend Common Council Member at-Large.

Filed in Clerk's Office

JUL 17 2019

KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

BILL NO. 24-19

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF SOUTH BEND, INDIANA,
AMENDING THE SOUTH BEND MUNICIPAL CODE BY REPEALING CURRENT
CHAPTER 20, ARTICLE 13 AND THE INCLUSION OF NEW CHAPTER 20, ARTICLE 13,
ENTITLED "REGULATIONS ON THE USE OF HAND-HELD MOBILE OR WIRELESS
TELEPHONES, ELECTRONIC COMMUNICATIONS DEVICES AND
TELECOMMUNICATIONS DEVICES WHILE DRIVING"

STATEMENT OF PURPOSE AND INTENT

The current version of Chapter 20, Article 13 of the South Bend Municipal Code prohibits the use of certain hand-held communication devices only in school zones. Subsequent data has made it clear that distracted driving through use of hand-held communication devices has increased accidents resulting in personal injuries and property damages on all types of roadways, not just in school zones. Indiana Code 9-21-1-2 provides local authorities, with the right to adopt, by ordinance, traffic regulations with respect to highways under the local authority's jurisdiction, as long as the ordinance does not conflict with, or duplicate, a statute. This ordinance does not conflict with or duplicate a statute and is designed to reduce the number of motor vehicle accidents caused by distracted driving by expanding the prohibition on the use of hand-held communication devices while driving on any roadway within 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 20, Article 13 is hereby amended to read in its entirety as follows:

ARTICLE 13.- REGULATIONS ON THE USE OF HAND-HELD MOBILE OR WIRELESS
TELEPHONES, ELECTRONIC COMMUNICATIONS DEVICES
AND TELECOMMUNICATIONS DEVICES WHILE DRIVING

Sec. 20-130. - Definitions.

In this article:

- (1) *Electronic communications device*, except as provided in subsection (h), means any of the following:
 - (a) A broadband personal communications device.
 - (b) A gaming system or device capable of displaying games.
 - (c) A handheld device, laptop computer, or tablet computer

with mobile data access.

(d) A pager or two-way messaging device.

(e) A personal digital assistant.

(f) A mobile or wireless telephone.

(g) The functional equivalent or successor to any device listed in subdivisions (a) through (f).

(h) The term does not include the following:

(1) Amateur radio equipment that is being operated by a person licensed as an amateur radio operator by the Federal Communications Commission under 47 CFR Part 97.

(2) A communications system installed in a commercial motor vehicle weighing more than ten thousand (10,000) pounds.

- (2) *Engaging in a call* means talking into, dialing or listening on a hand-held mobile or wireless telephone, but does not include holding a mobile telephone to activate or deactivate the telephone by pressing not more than one (1) button to initiate or terminate a voice communication or other transmission described in this article.
- (3) *Hand-held mobile telephone* means a mobile or wireless telephone with which a user engages in a call using at least one hand (or prosthetic device or aid in the case of a physically disabled person).
- (4) *Hands-free mobile telephone* means a mobile or wireless telephone that has an internal feature or function or that is equipped with an attachment or addition, whether or not permanently part of the mobile or wireless telephone, by which a user engages in a call without the use of either hand (or prosthetic device or aid in the case of a physically disabled person) whether or not the use of either hand (or prosthetic device) is necessary to activate or deactivate the mobile telephone.
- (5) *Mobile communication device* means a text-messaging device or other electronic, two-way communication device that is designed to receive and transmit voice communication, text communication, or both. The term includes a mobile telephone and a personal digital assistant (PDA).
- (6) *Mobile telephone* means a device used by subscribers and other users of wireless telephone service to access such service.
- (7) *School crossing zone* means a part of a roadway distinctly indicated for crossing by children on the way to or from school by lines or other markings on the surface of the roadway or by signs as addressed by Indiana Code §9-13-2-161.5.
- (8) *Text message* means a two-way communication (whether real-time or asynchronous) in which data (composed in whole or in part of text, numbers, images or symbols) is sent, entered or received by a method other than by voice and transmitted through either a short message service (SMS) or a computer network. The term includes electronic or e-mails. The term does not include a communication transmitted through a global positioning or navigation system.

- (9) *Telecommunications device* means an electronic or digital telecommunications device or digital telecommunications device as addressed in Indiana Code §9-13-2-177.3 and includes hand-held mobile or wireless telephones and mobile communication devices.
- (10) *Wireless telephone* means a device used by subscribers and other users of wireless telephone service to access such service.
- (11) *Wireless telephone service* means two-way, real time voice telecommunications service that is interconnected to a public switched telephone network and is commonly referred to as cellular service or personal communication service.

Sec. 20-131. - Drivers prohibited from using hand-held mobile or wireless telephones, mobile communication devices and telecommunication devices while driving .

- (1) Except as provided in Sec. 20-132, a person may not:
 - (a) hold or handle an electronic communications device;
 - (b) participate in text messaging; or
 - (c) view, record, or broadcast images or video;

while operating a moving motor vehicle.

- (2) An operator of a motor vehicle who holds a mobile telephone or telecommunications device or an electronic communications device to or in the immediate proximity of his or her ear while the vehicle is in motion is presumed to be engaging in a call under this article. Immediate proximity is any distance that permits the user of a mobile telephone or telecommunication device to hear telecommunications transmitted over the telephone or device and does not require physical contact with the user's ear.

Sec. 20-132. - Limited exceptions.

Section 20-131 does not apply to the following:

- (1) A law enforcement officer who is operating within the scope of the officer's employment, including while the law enforcement officer is:
 - (A) working in a plainclothes capacity;
 - (B) working in an undercover capacity; or
 - (C) responding to an emergency.

(2) A firefighter, emergency medical technician (EMT), paramedic, other first responder or other emergency personnel while acting within the scope of their employment and while responding to an emergency.

(3) A driver using an electronic communications device for the sole purpose of communicating with emergency personnel or law enforcement regarding an emergency.

(4) A driver using an electronic communications device by means of hands free or voice operated technology, including by:

(A) use of a headset or earpiece to conduct a voice communication;

(B) use of a device that is:

(i) designed to be worn on the wrist; and

(ii) capable of being used to conduct hands free voice communication;

(C) use of technology that uses voice recognition to convert a voice communication into text for purposes of transmission as a text message, electronic mail message, or other electronic data; if the device requires the driver to press not more than one (1) button to initiate or terminate a voice communication or transmission described in this subdivision.

(4) A driver using an electronic communications device while parked on the shoulder of a public highway.

(5) A driver using an electronic communications device when:

(A) the vehicle is not in motion; and

(B) the vehicle's transmission is in "park".

(6) A driver using:

(A) a navigation or global positioning feature of an electronic communications device; or

(B) a fixed device that is designed to continuously record or broadcast video from within or outside a motor vehicle; without holding or handling the device.

(7) A driver using a manufacturer installed system that is embedded or integrated into the vehicle.

Sec. 20-133. - Violations and penalties.

(1) Any person violating any provisions of this article shall be issued a citation and be subject to the following fines:

- (a) Seventy-five dollars (\$75.00) for the first violation;
- (b) One hundred twenty-five dollars (\$125.00) for the second violation;
- (c) Two hundred fifty dollars (\$250.00) for all subsequent violations.

However, if a person is violating any provisions of this article in a school crossing zone, the citation shall automatically result in a fine of two hundred fifty dollars (\$250.00).

- (2) Any person issued a citation for violating any provision of this article shall make payment through the Ordinance Violations Bureau. Failure to make payment within thirty (30) days of the issuance of the citation shall result in the assessment of a late fee of fifty dollars (\$50.00).
- (3) Each violation of this article shall constitute a separate offense.

Sec. 20-134. - Deposit of fine monies into Police Department Training Fund.

- (1) All monies collected and retained by the City for violation of this article shall be deposited into the Police Department Training Fund (Fund #220). Such monies shall be used solely for the purposes designated for such fund. All interest earned on the monies deposited in Fund #220 shall not revert to the General Fund.
- (2) The Department of Administration and Finance shall send monthly written reports to the Office of the City Clerk detailing the amount of money collected and the amount of interest earned, with such reporting being filed no later than the last business day of each month.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of South Bend, Indiana, as follows:

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

Tim Scott, Council President
South Bend Common Council

Attest:

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

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 2019, at _____ o'clock ____ . m.

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

Approved and signed by me on the _____ day of _____, 2019, at ____ o'clock
____.m.

Pete Buttigieg, Mayor
City of South Bend, Indiana

1200N COUNTY-CITY BUILDING
227 W. JEFFERSON BLVD.
SOUTH BEND, INDIANA 46601-1830



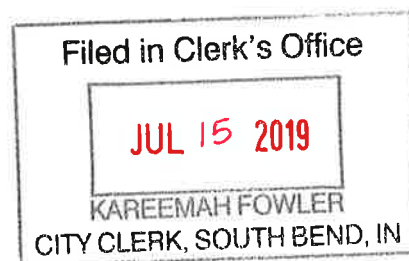
PHONE 574.235.9216
FAX 574.235.9928

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR

DEPARTMENT OF ADMINISTRATION AND FINANCE

July 15, 2019

Mr. Tim Scott, President
City of South Bend Common Council
227 W. Jefferson Boulevard, 4th Floor
South Bend, Indiana 46601



RE: Additional Appropriation Ordinance

Dear President Scott,

City administration is requesting a special additional appropriation outside of our normal, quarterly appropriation process. This special appropriation ordinance relates to the procurement of professional services for the South Bend Police Department.

I will present this bill to the Common Council at the appropriate committee and council meetings. It is requested that this bill be filed for 1st reading on July 22, 2019 with 2nd reading, public hearing and 3rd reading scheduled for August 12, 2019.

Thank you for your attention to this request. If you should have any questions, please feel to contact me at 574-235-9822.

Regards,

A handwritten signature in blue ink, appearing to read "Daniel T. Parker".

Daniel T. Parker
City Controller

Handwritten initials in blue ink, possibly "OK" or "AK".

BILL NO. 25-19

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, APPROPRIATING ADDITIONAL FUNDS FOR CERTAIN
DEPARTMENTAL AND CITY SERVICES OPERATIONS IN 2019 OF \$180,070
FROM GENERAL FUND (#101)

STATEMENT OF PURPOSE AND INTENT

The Common Council passed the City's 2019 operating and capital budgets in 2018 (Ordinance #10615-18 passed on October 8, 2018), which included expenditures for various City operations. It is now necessary to appropriate additional funds for operational and capital expenditures necessary for the City to effect provision of services to its citizens which were not anticipated at the time the City budget was adopted.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of South Bend, Indiana, as follows:

Section I. The following amounts are hereby appropriated in fiscal year 2019 and set apart within the following designated funds for expenditures as follows:

FUND	<u>Amount</u>
General Fund (#101)	<u>\$180,070</u>
TOTAL	<u><u>\$180,070</u></u>

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

Tim Scott, Council President
South Bend Common Council

Attest:

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

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 2019, at _____ o'clock ____ m.

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

Approved and signed by me on the _____ day of _____, 2019, at _____
o'clock
____.m.

Pete Buttigieg, Mayor
City of South Bend, Indiana