

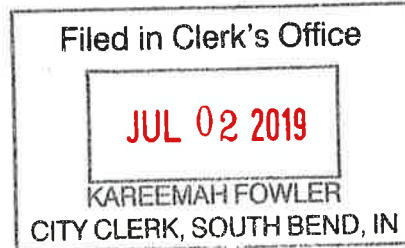


City of South Bend Common Council

441 County-City Building • 227 W. Jeffeler Blvd
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South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601



July 2, 2019

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.



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Tim Scott
President

Karen White
Vice-President

John Voorde
Chairperson,
Committee of the Whole

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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

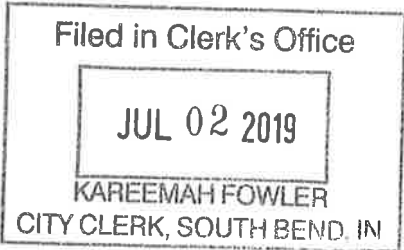
John Voorde
At Large

Karen White
At Large

Sincerely Yours,

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

Oliver Davis, 6th District Representative



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