



# OFFICE OF THE CITY CLERK

## DAWN M. JONES, CITY CLERK

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### MEMORANDUM

**TO:** MEMBERS OF THE COMMON COUNCIL  
**FROM:** DAWN M. JONES, CITY CLERK  
**DATE:** THURSDAY, AUGUST 18, 2022  
**SUBJECT:** COMMITTEE MEETING NOTICE

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The following Common Council Committee Meetings have been scheduled for **Monday, August 22, 2022:**

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

The Council Chambers will be Open to the Public or Members of the Public May Attend this Meeting Virtually via Microsoft Teams Meeting app here: <https://tinyurl.com/082222CC>.

**4:00 P.M.**                      **COMMUNITY**    **CHAIRPERSON, TOMAS MORGAN**  
**INVESTMENT**

[Bill No. 22-41](#) – Tax Abatement Confirming 505 S. Michigan St.  
Monreaux, LLC

**4:15 P.M.**                      **ZONING &**    **CHAIRPERSON, HAMANN**  
**ANNEXATION**

[Bill No. 30-22](#) – Amending Zoning Ordinance for 1335 E. Ireland &  
4427 S. Brookton

[Bill No. 36-22](#) – Amending Zoning Ordinance for 300 St. Louis  
Blvd.

[Bill No. 38-22](#) – Amending Zoning Ordinance for 232

Council Vice-President Sheila Niezgodski 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**

**VICE-PRESIDENT, SHEILA  
NIEZGODSKI**

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

cc: Mayor James Mueller  
Committee Meeting  
List Media

**NOTICE FOR HEARING AND SIGHT-IMPAIRED PERSONS**

Auxiliary Aid or Other Services may be Available upon Request at No Charge.

Please give Reasonable Advance Request when Possible





# South Bend Common Council

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## Meeting Agenda

Monday, August 22, 2022

7:00 PM

The South Bend Common Council meeting will be open to the public at the Council Chambers on the 4<sup>th</sup> floor of the County-City Building, 227 W. Jefferson Blvd., South Bend, IN 46601

or available by way of a virtual meeting using the Microsoft Teams Meeting App. Public access to the meeting can be granted by this Microsoft Teams

Link: <https://tinyurl.com/082222SBCC>

1. **INVOCATION**

TBD

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **REPORT FROM SUB-COMMITTEE ON MINUTES**

JUNE 13, 2022, JUNE 27, 2022

JULY 11, 2022, JULY 25, 2022

5. **SPECIAL BUSINESS**

SPECIAL RESOLUTION FOR CONGRESSPERSON JACKIE WALORSKI

6. **REPORTS FROM CITY OFFICES**

7. **COMMITTEE OF THE WHOLE**  
**BILL NO.**

[30-22](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED 1335 EAST IRELAND AND 4427 SOUTH BROOKTON, COUNCILMANIC DISTRICT NO. 5 IN THE CITY OF SOUTH BEND, INDIANA

[36-22](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED 300 ST LOUIS BLVD. COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA

[38-22](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED 232 LAPORTE AVE COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

8. **RISE AND REPORT**

9. **REGULAR MEETING RECONVENED**

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

[30-22](#) THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED 1335 EAST IRELAND AND 4427 SOUTH BROOKTON, COUNCILMANIC DISTRICT NO. 5 IN THE CITY OF SOUTH BEND, INDIANA

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[38-22](#) THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED 232 LAPORTE

AVE COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

11. **RESOLUTIONS**

BILL NO.

[22-41](#) A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, CONFIRMING THE ADOPTION OF A DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS 505 S MICHIGAN ST., SOUTH BEND, IN 46601 AS AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF AN EIGHT (8) YEAR MIXED-USE REAL PROPERTY TAX ABATEMENT FOR THE MONREAUX, LLC

12. **BILLS OF FIRST READING**

BILL NO.

[40-22](#) FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 1702 W WESTERN AVE COUNCILMANIC DISTRICT NO. 6 IN THE CITY OF SOUTH BEND, INDIANA

[41-22](#) FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED 1345 N. MICHIGAN ST., COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA

[42-22](#) FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, REPLACING AND AMENDING CHAPTER 2, ARTICLE 1, SECTIONS 2-1 THROUGH AND INCLUDING 2-9, OF THE SOUTH BEND MUNICIPAL CODE TO UPDATE AND CLARIFY PROCEDURES FOR THE SOUTH BEND COMMON COUNCIL AND THE OFFICE OF THE CITY CLERK

[43-22](#) FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, AMENDING VARIOUS ARTICLES AND SECTIONS OF CHAPTER 17 OF THE SOUTH BEND MUNICIPAL CODE TO ADDRESS LATE FEES FOR CITY UTILITY CUSTOMERS AND RENAMING THE “LOW-INCOME

CUSTOMER ASSISTANCE PROGRAM” (LICAP) AS THE “UTILITY  
ASSISTANCE PROGRAM” (UAP)

13. **UNFINISHED BUSINESS**

14. **NEW BUSINESS**

15. **PRIVILEGE OF THE FLOOR**

16. **ADJOURNMENT**

Notice for Hearing and Sight Impaired Persons:

Auxiliary aid or other services are available upon request at no charge.

Please give reasonable advance request if and when possible.



## 2022 COMMON COUNCIL STANDING COMMITTEES (Rev. 05-17-2022)

### 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.

Rachel Tomas Morgan, Chairperson  
Henry Davis, Jr., Vice-Chairperson  
Thomas Kurzhal, *Citizen Member*

Eli Wax, Member  
Kaine Kanczuzewski, *Citizen 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.

Troy Warner, Chairperson  
Eli Wax, Vice-Chairperson  
*Citizen Member*

Canneth Lee, Member  
Lori K. Hamann, 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*.

Sharon L. McBride, Member  
Sheila Niezgodski, Member

Eli Wax, 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.

Eli Wax, Chairperson  
Karen L. White, Vice-Chairperson  
Rachel Tomas Morgan, Member

Troy Warner, Member  
Canneth Lee, Member  
Desmont Upchurch, *Citizen 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.

Rachel Tomas Morgan, Chairperson  
Lori K. Hamann, Vice-Chairperson  
Maria Gibbs, *Citizen Member*

Canneth Lee, Member  
Scott Matthew Coats, *Citizen 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.

Canneth Lee, Chairperson  
Troy Warner, Vice-Chairperson  
Chris Hagstrom-Jones, *Citizen Member*

Henry Davis, Jr., Member  
Rachel Tomas Morgan, Member  
*Citizen Member*



### **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.

Sheila Niezgodski, Chairperson  
Eli Wax, Vice-Chairperson  
Rachel Tomas Morgan, Member

Troy Warner, Member  
Henry Davis, Jr., Member  
Aaron Steiner, *Citizen 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.

Sheila Niezgodski, Chairperson  
Lori K. Hamann, Vice-Chairperson  
Jason Piontek, *Citizen Member*

Karen L. White, Member  
Carl Littrell, *Citizen Member*

### **RESIDENTIAL NEIGHBORHOODS COMMITTEE**

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

Karen L. White, Chairperson  
Canneth Lee, Vice-Chairperson  
Amika Micou, *Citizen Member*

Henry Davis, Jr., Member  
Sheila Niezgodski, Member  
*Citizen 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.

Henry Davis, Jr., Chairperson  
Troy Warner, Vice-Chairperson  
*Citizen Member*

Eli Wax, Member  
Lori K. Hamann, Member  
*Citizen 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.

Lori K. Hamann, Chairperson  
Henry Davis, Jr., Vice-Chairperson  
James Snodgrass, *Citizen Member*

Sheila Niezgodski, Member  
Karen L. White, Member

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

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

Troy Warner, Member

Eli Wax, Member



## 2022 COMMON COUNCIL STANDING COMMITTEES (Rev.01-06-2022)

### **CANNETH LEE, 1<sup>ST</sup> District Council Member**

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

##### **PARC Committee, Chairperson**

Residential Neighborhoods Committee, Vice-Chairperson  
Community Relations Committee, Member

Health & Public Safety Committee, Member  
Information & Technology Committee, Member

### **HENRY DAVIS, JR. 2<sup>ND</sup> District Council Member**

##### **Utilities Committee, Chairperson**

Community Investment Committee, Vice-Chairperson  
Zoning & Annexation Committee, Vice-Chairperson  
PARC Committee, Member

Residential Neighborhoods Committee, Member  
Personnel & Finance Committee, Member

### **SHARON L. MCBRIDE, 3<sup>RD</sup> District Council Member**

#### **President**

Council Rules Committee, Member

### **TROY WARNER, 4<sup>TH</sup> District Council Member**

##### **Community Relations Committee, Chairperson**

Utilities Committee, Vice-Chairperson  
PARC Committee, Vice-Chairperson

Health & Public Safety Committee, Member  
Personnel & Finance Committee, Member  
Sub-Committee on the Minutes, Member

### **ELI WAX, 5<sup>TH</sup> District Council Member**

##### **Health & Public Safety Committee, Chairperson**

Community Relations, Vice-Chairperson  
Personnel & Finance, Vice-Chairperson  
Committee Investment, Member

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

### **SHEILA NIEZGODSKI, 6<sup>TH</sup> District Council Member**

#### **Vice-President**

##### **Personnel & Finance Committee, Chairperson**

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

Residential Neighborhoods Committee, Member  
Zoning & Annexation Committee, Member

### **RACHEL TOMAS MORGAN, AT LARGE Council Member**

##### **Information & Technology Committee, Chairperson**

##### **Community Investment Committee, Chairperson**

Health & Public Safety Committee, Member

PARC Committee, Member  
Personnel & Finance Committee, Member

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

##### **Residential Neighborhoods Committee, Chairperson**

Health & Public Safety Committee, Vice-Chairperson

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

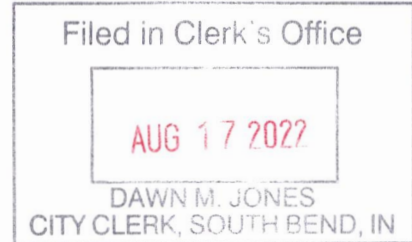
### **LORI K. HAMANN, AT LARGE Council Member**

##### **Zoning & Annexation Committee, Chairperson**

Public Works & Property Vacation, Vice-Chairperson  
Information & Technology Committee, Vice-Chairperson

Community Relations Committee, Member  
Utilities Committee, Member





## CITY OF SOUTH BEND COMMUNITY INVESTMENT

August 16, 2022

Council Member Rachel Tomas Morgan, Chairperson  
Community Investment Committee  
South Bend Common Council  
4th Floor, County City Building  
South Bend, IN 46601

RE: Mixed-Use Real Property Tax Abatement Petition for: **The Monreaux, LLC**

Dear Council Member Tomas Morgan:

Please find the attached information pertaining to a mixed-use real property tax abatement petition submitted by The Monreaux, LLC to build a new building on the vacant lot at the intersection of Michigan and Monroe Streets, South Bend. The site has been vacant and underutilized for many years and is currently owned by the city.

As a side note, this proposed abatement is part of a support package partnering with The Monreaux for an Indiana Tax Credit application. You may recall prior abatements for Commonwealth at the Fat Daddy's site and Mutual Homes for a scattered site application. Unfortunately, neither of those projects were selected by the Indiana Housing and Community Development Authority for tax credits. Likewise, this proposed abatement will only go into effect if this The Monreaux project is chosen by IHEDA in this year's competitive Tax Credit application round.

This petition package includes:

- Department of Community Investment's summary report
- Petition
- Statement of Benefits form
- Supporting information.

The report contains the Department's findings relative to the above petition. The petitioner proposes to develop a 65,000 square foot, 4-story mixed-use and multi-family building with a one-story covered parking garage. The building will have commercial, retail space available on the first floor with 60 apartment units comprising the remainder of the building. Of the 60 apartment units, 46 (77 percent) will be affordable to lower-income residents. 20 percent of the total apartments will target households earning 30 percent of the average market income (AMI), 18 percent will target households earning 50 percent AMI, 23 percent will have the target of 60 percent AMI, and 17 percent will have a target of 80 percent AMI. The project meets the



CITY OF SOUTH BEND | COMMUNITY INVESTMENT

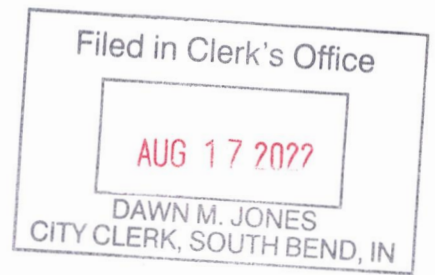
qualifications for an eight-year (8) mixed-use real property tax abatement and a representative from the company will be available to meet with the Committee on Monday, August 22, 2022.

Should you or any of the other Committee or Council members have any questions concerning the report, or need additional information, please feel free to email or call me at (574) 235-5898.

Sincerely,

A handwritten signature in black ink, appearing to read 'Caleb Bauer', written in a cursive style.

Caleb Bauer  
Acting Executive Director  
Department of Community Investment



BILL NO. 22-41

RESOLUTION NO. 4975-22

A RESOLUTION CONFIRMING THE ADOPTION OF A DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS

**505 S Michigan St, South Bend IN 46601**

AS AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF AN EIGHT (8) YEAR MIXED-USE REAL PROPERTY TAX ABATEMENT FOR

**The Monreaux, LLC**

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WHEREAS, the Common Council of the City of South Bend, Indiana, has adopted a Declaratory Resolution designating certain areas within the City as Economic Revitalization Areas for the purpose of tax abatement consideration; and

WHEREAS, a Declaratory Resolution designated the area commonly known as 505 S Michigan St, South Bend, Indiana, and which is more particularly described as follows:

- (1) 132 Ft E End Lot 19Martins Add
- (2) N 44' Lot 20 Martins Add
- (3) S 1-3 Lot 20 Martins Add
- (4) Lot 21 & N 1/2 Vac Alley S & Adj Martins Add

and which has Key Numbers 71-08-12-306-010.000-026, 71-08-12-306-011.000-026, 71-08-12-306-012.000-026, and 71-08-12-306-013.000-026 be designated as an Economic Revitalization Area; and

WHEREAS, notice of the adoption of a Declaratory Resolution and the public hearing before the Council has been published pursuant to Indiana Code 6-1.1-12.1-2.5; and

WHEREAS, the Council held a public hearing for the purposes of hearing all remonstrances and objections from interested persons; and

WHEREAS, the Council has determined that the qualifications for an economic revitalization area have been met.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of South

Bend, Indiana, as follows:

SECTION I. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement. Such designation is for mixed-use real property tax abatement only and is limited to three (3) calendar years from the date of adoption of the Declaratory Resolution by the Common Council.

SECTION II. The Common Council hereby determines that the property owner is qualified for and is granted Real property tax deduction for up to a period of eight (8) years as shown by the schedule outlined below as well as the attachment pursuant to Indiana Code 6-1.1-12.1-17 and further determines that the petition, the Memorandum of Agreement between the Petitioner and the City of South Bend, and the Statement of Benefits comply with Chapter 2, Article 6, of the Municipal Code of the City of South Bend and Indiana Code 6-1.1-12 et seq.

- Year 1 - 100%
- Year 2 - 95%
- Year 3 - 90%
- Year 4 - 85%
- Year 5 - 80%
- Year 6 - 75%
- Year 7 - 70%
- Year 8 - 65%

SECTION III. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approved by the Mayor.

\_\_\_\_\_  
Sharon L. McBride, Council President  
South Bend Common Council

Attest:

\_\_\_\_\_  
Dawn M. Jones, City Clerk  
Office of the City Clerk

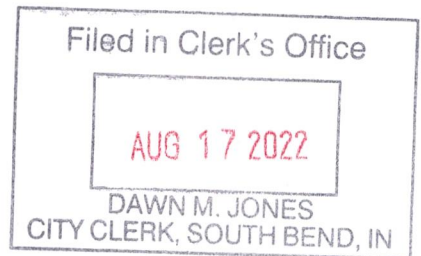
Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_ . m.

\_\_\_\_\_  
Dawn M. Jones, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_ o'clock  
\_\_\_\_.m.

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James Mueller, Mayor  
City of South Bend, Indiana



## **TAX ABATEMENT REPORT**

TO: South Bend Common Council

FROM: Mark Bemenderfer, Manager of Business Development

SUBJECT: MIXED USE REAL PROPERTY TAX ABATEMENT PETITION FOR:  
**The Monreaux, LLC**

DATE: July 20, 2022

On Tuesday, July 19, 2022, a petition from The Monreaux, LLC was received and subsequently filed with the City Clerk for real property tax abatement consideration for a mixed-use property on the corner of Michigan St and Monroe St, South Bend. Pursuant to Chapter 2, Article 6, Section 2-84.2 of the Municipal Code of the City of South Bend, this petition was referred to the Department of Community Investment for purposes of investigation and preparation of a report determining whether the area qualifies as an Economic Revitalization Area pursuant to I.C.6-1.1-12.1 and whether all zoning requirements have been met.

The Department of Community Investment has reviewed the petition (a copy of which is attached), investigated the area, and makes the following report.

### **PROJECT SUMMARY**

- The Monreaux, LLC is proposing to develop a mixed-use building with 60 apartments. 78% of the apartments will be for lower income households with 20% of the total apartments slated for households with 30% of the average market income (AMI), 18% of the apartments targeting 50% AMI, 23% of the apartments for 60% AMI, and 17% will target 80% AMI. The remaining 22% will be at market rate. Apartments will consist of a mixture of studio apartments and 1-3 bedroom apartments with low-income options.
- The Monreaux, LLC will help fill a niche in needed affordable apartments for the working poor as well as market rate apartments in downtown South Bend.
- The company is planning to file for low-income housing tax credit (LIHTC) in Indiana and is required to demonstrate a local support.
- Total private investment of over \$14m
- 65,000 SF
- Current assessed value of the vacant land is \$0.00 as it is city owned. Zero current taxes.



### **EMPLOYMENT IMPACT**

Per this petition, it is estimated that the company will:

- Create, at least, eight (8) new full-time jobs with an estimated total annual payroll of \$266,240.

### **ABATEMENT QUALIFICATION**

1. A review of the tax abatements previously granted, finds that the petitioner has not been granted or is associated with a previous abatement.
2. The Area Plan Commission has reviewed the petition and finds the property to be properly zoned for the proposed project.
3. A review of the South Bend Redevelopment designation areas finds that the property is located in the River West Development Area.
4. A review of the Tax Abatement Ordinance No. 9394-03 finds that the petitioner meets the qualifications for a (8) eight-year mixed-use real property tax abatement under Section 5.

## The Monreaux, LLC (Commercial only)

### South Bend Portage Township Real Property Tax Abatement Schedule\*

Tax Key Number	Current Assessed Value:	Estimated Project Cost:	Multiple	10.00%										
				Without Abatement	Year.1	Year.2	Year.3	Year.4	Year.5	Year.6	Year.7	Year.8		
100%	0	0	1,344,200	0	1,075,360	1,075,360	1,075,360	1,075,360	1,075,360	1,075,360	1,075,360	1,075,360	1,075,360	1,075,360
80%	0	0	0	1,075,360	(1,075,360)	0	0	0	0	0	0	0	0	0
	0	0	0	1,075,360	(1,021,592)	53,768	107,536	161,304	215,072	268,840	322,608	376,376		
<b>Property Taxes:</b>														
Assume constant tax rate of	5.3386%			5.3386%	5.3386%	5.3386%	5.3386%	5.3386%	5.3386%	5.3386%	5.3386%	5.3386%	5.3386%	5.3386%
Gross Tax (tax rate x net assessed value)	0	57,409	0	57,409	2,870	2,870	5,741	8,611	11,482	14,352	17,223	20,093	20,093	0
Less Circuit Breaker Credit	0	(25,148)	0	0	0	0	0	0	0	0	0	0	0	0
Net Tax	0	32,261	0	32,261	2,870	2,870	5,741	8,611	11,482	14,352	17,223	20,093	20,093	0
Circuit Breaker Cap	3.0000%	0	32,261	32,261	32,261	32,261	32,261	32,261	32,261	32,261	32,261	32,261	32,261	32,261
Circuit Breaker Debt Service	0.0000%	0	0	0	0	0	0	0	0	0	0	0	0	0
Circuit Braker Cap		0	32,261	32,261	32,261	32,261	32,261	32,261	32,261	32,261	32,261	32,261	32,261	32,261

Commercial Section Only

Year	Existing Taxes	New Project Taxes	Combined Existing & New Taxes	Tax Abated	Net Tax Paid
1	0	32,261	32,261	32,261	0
2	0	32,261	32,261	29,390	2,870
3	0	32,261	32,261	26,520	5,741
4	0	32,261	32,261	23,649	8,611
5	0	32,261	32,261	20,779	11,482
6	0	32,261	32,261	17,909	14,352
7	0	32,261	32,261	15,038	17,223
8	0	32,261	32,261	12,168	20,093
<b>Totals</b>	<b>0</b>	<b>258,086</b>	<b>258,086</b>	<b>177,714</b>	<b>80,372</b>

\*This schedule is for estimation purposes only and assumes constant tax rates. The true tax values will ultimately be determined by the actual assessed valuation and the then current tax rates.

## The Monreaux, LLC (Multi-Family only)

### South Bend Portage Township Real Property Tax Abatement Schedule\*

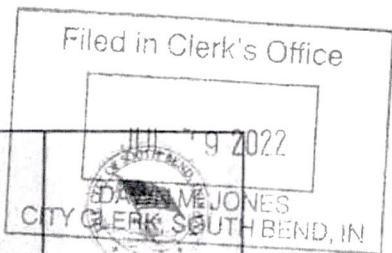
Tax Key Number	Multiple	100%	95%	90%	85%	80%	75%	70%	65%
Current Assessed Value:	3,000,000	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
Estimated Project Cost:	0	0	0	0	0	0	0	0	0
Assessed Value:		3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000
Current Assessed Value		3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000
Base Assessed Value		3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000
Less Abatement Deduction		(3,000,000)	(2,850,000)	(2,700,000)	(2,550,000)	(2,400,000)	(2,250,000)	(2,100,000)	(1,950,000)
Net Assessed Value		0	150,000	300,000	450,000	600,000	750,000	900,000	1,050,000
<b>Property Taxes:</b>									
Assume constant tax rate of		5.3386%	5.3386%	5.3386%	5.3386%	5.3386%	5.3386%	5.3386%	5.3386%
Gross Tax (tax rate x net assessed value)		0	8,008	16,016	24,024	32,031	40,039	48,047	56,055
Less Circuit Breaker Credit		0	0	0	0	0	0	0	0
Net Tax		0	8,008	16,016	24,024	32,031	40,039	48,047	56,055
<b>Circuit Breaker Cap</b>									
Circuit Breaker	2.0000%	0	60,000	60,000	60,000	60,000	60,000	60,000	60,000
Debt Service	0.0000%	0	0	0	0	0	0	0	0
Circuit Breaker Cap		0	60,000	60,000	60,000	60,000	60,000	60,000	60,000

**Residential Portion Only**

Year	Existing Taxes	New Project Taxes	Combined Existing & New Taxes	Tax Abated	Net Tax Paid
1	0	60,000	60,000	60,000	0
2	0	60,000	60,000	51,992	8,008
3	0	60,000	60,000	43,984	16,016
4	0	60,000	60,000	35,976	24,024
5	0	60,000	60,000	27,969	32,031
6	0	60,000	60,000	19,961	40,039
7	0	60,000	60,000	11,953	48,047
8	0	60,000	60,000	3,945	56,055
<b>Totals</b>	0	480,000	480,000	255,780	224,220

\*This schedule is for estimation purposes only and assumes constant tax rates. The true tax values will ultimately be determined by the actual assessed valuation and the then current tax rates.





## City of South Bend Petition for Incentives

*Petition must include a \$250 filing fee payable to the City Clerk's Office or online via the City's website at <http://southbendin.gov/government/content/tax-abatement> before processing can be complete*

<b>General Information</b>		<b>Project Name</b>	The Monreaux	<b>Project Number</b>	
Legal name as registered with Secretary of State		The Monreaux LLC			
Business structure		LLC			
Company website		N/A			
<b>Proposed Project Information</b>					
Proposed project address		505 S. Michigan St	<b>Parent company name</b>	Chateaux 14 Development LLC	
City, State, Zip		South Bend, IN, 46601	<b>Legal owner</b>	The Monreaux LLC	
Site acreage or acreage required		.7 ac	<b>is the real estate owned or leased</b>	owned	
Square feet of facility		65,312	<b>if leased by whom</b>		
<b>Primary Contact Information</b>					
Primary company contact name		Devereaux Peters	<b>Title</b>	Managing Member	
Address of company contact		215 E 61st St	<b>Phone</b>	773-484-8430	
City, State, Zip		Chicago, IL, 60637	<b>Email</b>	devereauxpeters14@gmail.com	
<b>Senior Official Information</b>					
Company senior official name		Devereaux Peters	<b>Title</b>	Managing Member	
Address of company contact (if different from above)			<b>Phone</b>		
City, State, Zip			<b>Email</b>		
<b>Consultant Information/Agent</b>					
Hired business consultant/agent name		Ronald Gatton	<b>Consultant release (Y/N)</b>		
Address		215 E 61st St	<b>Local economic development partners approval (Y/N)</b>		
City, State, Zip		Chicago, IL, 60637	<b>Email</b>	rgrsc@aol.com	
<b>Project Overview</b>					
<b>Brief description of your company, project, and why the property is necessary for economic growth</b>		<p>Chateaux 14 Development was started to lend our development talents to improving urban neighborhoods. We are currently working on a dance studio on the south side of Chicago for a Deeply Rooted dance company, a black-owned dance company based in Chicago. We are also consulting on a RAD conversion for an apartment complex in Chicago. Our proposed project in South Bend is a 60-unit, high amenity, mixed-use building with 1st floor commercial space, live-work units, and affordable as well as market rate residential units. We are looking to build on a vacant lot on the corner of Michigan St and Monroe St, a 65,000 sq ft building, that looks to uplift the edge of downtown and serve as a launchpad to promote further development in the area.</p> <p>The proposed site of the development is a large under utilized block bounded by S Michigan St, W Monroe St, South St. This block is the centerpiece of the general undeveloped southeast quadrant of South Bend's downtown area. With the current combination of vacant and largely marginal businesses the block represents a major obstacle to continuing the progress that has been made in the remainder of the downtown South Bend area to the southeast quadrant. The combination of adding additional people to the area through the residential units and the commanding physical presence the development will present should provide a catalyst for additional investment in the surrounding blocks. The redevelopment of this block is essential to the continuing revitalization and expansion of South Bend's promising downtown development activities.</p>			
<b>Certified Technology Park appropriate</b>					
<b>Is the project in a Tax Incremental Financing (TIF) area? If so, which?</b>		River West			
<b>Certify that the Building Permit has not been issued (Y/N)</b>		Yes	<b>Number of residential units created by project</b>	60	
<b>If this is a petition for personal property tax abatement, has the equipment been installed</b>					

<b>Investment Details</b>			
<b>Public infrastructure needs (Off-site of project in dollars)</b>	<b>Has any 504 funding been received?</b>	<b>What is the value of any equipment being purchased in Indiana for the project?</b>	<b>What is the value of any equipment being purchased from out of state for the project?</b>
500,000	No	6,825,000	2,275,000



New Project Investments								
Calendar Year	2022	2023	2024	2025	2026	2027	2028	2029
Land Acquisition		\$ 1,000.00						
Building Lease Payments								
Building Purchase Costs								
New Building Construction		\$ 13,889,933.00						
Existing Building Improvements								
New Machinery & Equipment		\$ 250,000.00						
Special Tooling/Retrofitting								
New Furniture/Fixtures		\$ 150,000.00						
New Computer/IT Hardware								
New Software								
On-site Rail Infrastructure								
On-site Fiber Infrastructure								
<b>TOTAL</b>	<b>\$ 0.00</b>	<b>\$ 14,069,933.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>

Full-Time Permanent Indiana-Resident Positions by Calendar Year						
Calendar Year	Jobs retained	Total hourly wage w/o fringe or bonuses	Cumulative # of net NEW full time permanent jobs created at project	Hourly average wage, w/o benefits or bonuses, of cumulative net new jobs	Total training expenditure - not cumulative	Total # to be trained - not cumulative
2022						
2023						
2024			8	\$16/hr		
2025						
2026						
2027						
2028						
2029						
2030						
2031						
2032						
2033						

Provide hourly wage information for new employees in the following positions.		
	Full time	Part time
Laborers	1 \$16/hr, 2 \$14/hr, 1-\$15/hr	1-\$14/hr, 15-\$13/hr
Technical	1-\$15/hr	
Managerial	1-\$20/hr, 3-\$16/hr, 1-\$15/hr	1 res \$12/hr, 2-\$14/hr
Administrative		

Who will be the individual responsible for coordinating with WorkOne on recruiting? \_\_\_\_\_

Does your company have an EEO hiring policy?  Are you an EEO employer?

Please list the number of full time and part time minority and/or female employees for each of the last three years:							Please describe your commitment to diversity and inclusion by detailing your outreach and recruitment efforts for the last three years as well as current policies.
Year	2021		2020		2019		
	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time	
Black	13						Our commitment to diversity and inclusion is evident in the fact that 97% of our total workforce is comprised of minorities, 50% of which are women.
Hispanic	1						
Asian							
Indian							
Female	14						
Other							



**Complete below for Real or Personal Property Tax Abatement only.  
Please sign for all requested incentives.**

**Public Benefit Item:**

Information is required on both the construction companies and the companies which will provide materials purchased for this project. Please complete the table below with the appropriate information. If you qualify for the points, please enter the full amount of available points.		Qualify (Yes or No)	Earned Points	Available Points	
1	<b>Construction Related (Contractors):</b>				
	A.	Employ Local Companies (75%)	Yes	20	20
	B.	Purchase Materials from Local Companies (75%)	No	0	20
	C.	Require Employees vs. Independent Contractors	No	0	19
	D.	Require Prevailing Wage (Davis Bacon)	Yes	22	22
	E.	Require Health Benefits	Yes	22	22
	F.	Require Pension Benefits	Yes	18	18
	G.	Maintain Affirmative Action Plan	Yes	20	20
		<b>Sub-total Construction Related:</b>		102	141
2	<b>Wage &amp; Benefit Related (Owner):</b>				
	A.	Pay Target Wage Levels	Yes	33	33
	B.	Provide Health Benefits	Yes	34	34
	C.	Provide Pension Benefits	Yes	29	29
	D.	Provide Training	Yes	28	28
	E.	Provide Child Care	No	0	15
	F.	Provide Transportation Assistance	No	0	14
	G.	Provide Employer Assisted Housing program	No	0	9
	<b>Sub-total Wage &amp; Benefit Related:</b>		124	162	
3	<b>Workforce Related:</b>				
	A.	Create New Jobs	Yes	42	42
	B.	Retain Existing Jobs	No	0	41
	C.	Maintain Affirmative Action Plan	Yes	35	35
	D.	Provide Targeted Hiring Preference	Yes	34	34
	<b>Sub-total Workforce Related:</b>		111	152	
4	<b>Support a Municipal Facility:</b>				
	A.	Support a SB Municipal Facility (donations to the zoo, conservatory, museum, etc.)	No	0	84
		Name of Facility			
	<b>Sub-total Municipal Facility:</b>		0	84	
<b>Sub-total from Above:</b>			337	539	

The undersigned owner(s) of real property, located within the City of South Bend, hereby petition the Common Council of the City of South Bend for a real and/or personal property tax abatement consideration and pursuant to I.C., 6-1.1-12.1-1, et seq., and South Bend Municipal Code Sec. 2-76 et seq., for this petition state the above.

<b>Submitted By:</b>		<b>Date:</b>	
----------------------	--	--------------	--



For Staff Use Only Below This Line						
What is the current assessed value?	Real Property:	0	Personal Property:	0		
What is the projected assessed value?	Real Property:	4,075,360	Personal Property:	0		
What is the tax key number for this project?	71-08-12-306-010.000-026, 71-08-12-306-011.000-026, 71-08-12-306-012.000-026, 71-08-12-306-013.000-026					
What is the six digit NAICS code?	531110					
Please attach a Google map and street view of the location.	attached					
Please list the amount of real and personal property taxes paid for the last five years when applicable.	Real Property Taxes:	Personal Property Taxes:				
	Year One	0 (gov.owned)	0 (gov.owned)			
	Year Two	0 (gov.owned)	0 (gov.owned)			
	Year Three	0 (gov.owned)	0 (gov.owned)			
	Year Four	0 (gov.owned)	0 (gov.owned)			
	Year Five	0 (gov.owned)	0 (gov.owned)			
Please fill out the following Public Benefit Summary Information and add to total from above.						
			<u>(Y or N)</u>	<u>Points</u>	<u>Points</u>	
<b>Public Benefit Item:</b>						
<u>Project Related:</u>						
5	A.	Redevelop a Site that has Special Needs	N		49	
	B.	Develop Based on Local University Research	N		35	
	C.	Achieve a Physical Element of a Plan	N		36	
	<b>Sub-total Project Related:</b>					120
6	<b>Super Size Projects (point values are cumulative):</b>					
	A.	100% to 199%	Y	25	25	
	B.	200% to 299%	Y	68	68	
	C.	300% to 399%	Y	65	65	
	D.	400% and Over	Y	52	52	
<b>Sub-total Super Size Projects:</b>				210	210	
7	<b>Pay for Municipal Infrastructure:</b>					
	A.	Pay for Oversizing or Upgrading			14	
	B.	Pay for 26-50% of Extension Cost			26	
	C.	Pay for 51-75% of Extension Cost			39	
	D.	Pay for 76-100% of Extension Cost			52	
<b>Sub-total Infrastructure Related:</b>					131	
<b>Total from Applicant Section:</b>				337	539	
<b>Total from Staff Section:</b>				210	451	
<b>Total Public Benefit Points:</b>				547	1000	





**STATEMENT OF BENEFITS  
REAL ESTATE IMPROVEMENTS**

State Form 51767 (R6 / 10-14)  
Prescribed by the Department of Local Government Finance

20__ PAY 20__
<b>FORM SB-1 / Real Property</b>
<b>PRIVACY NOTICE</b>
Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

This statement is being completed for real property that qualifies under the following Indiana Code (check one box):

- Redevelopment or rehabilitation of real estate improvements (IC 6-1.1-12.1-4)  
 Residentially distressed area (IC 6-1.1-12.1-4.1)

**INSTRUCTIONS:**

- This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise, this statement must be submitted to the designating body BEFORE the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction.
- The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction.
- To obtain a deduction, a Form 322/RE must be filed with the County Auditor before May 10 in the year in which the addition to assessed valuation is made or not later than thirty (30) days after the assessment notice is mailed to the property owner if it was mailed after April 10. A property owner who failed to file a deduction application within the prescribed deadline may file an application between March 1 and May 10 of a subsequent year.
- A property owner who files for the deduction must provide the County Auditor and designating body with a Form CF-1/Real Property. The Form CF-1/Real Property should be attached to the Form 322/RE when the deduction is first claimed and then updated annually for each year the deduction is applicable. IC 6-1.1-12.1-5.1(b)
- For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/Real Property that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. IC 6-1.1-12.1-17

SECTION 1 TAXPAYER INFORMATION					
Name of taxpayer The Monreaux LLC					
Address of taxpayer (number and street, city, state, and ZIP code) 1335 Pyle Ave, South Bend, IN, 46615					
Name of contact person		Telephone number ( ) 77-484-8430		E-mail address devereauxpeters14@gmail.com	
SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT					
Name of designating body City of South Bend/ South Bend Redevelopment Commission				Resolution number	
Location of property Vacant lot at the SW corner of Michigan St and Monroe St		County St Joseph County		DLGF taxing district number	
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) A 65,312 square foot newly constructed 4-story mixed-use building and a 1-story covered parking structure				Estimated start date (month, day, year) July 1, 2023	
				Estimated completion date (month, day, year) Nov 1, 2024	
SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT					
Current number	Salaries	Number retained	Salaries	Number additional	Salaries
0	0	0	0	29	\$13-18/hr
SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT					
			REAL ESTATE IMPROVEMENTS		
			COST	ASSESSED VALUE	
Current values			0	0	
Plus estimated values of proposed project			\$13,524,560	4,000,000	
Less values of any property being replaced			0	0	
Net estimated values upon completion of project			\$13,524,560	4,000,000	
SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER					
Estimated solid waste converted (pounds) N/A			Estimated hazardous waste converted (pounds) N/A		
Other benefits 46 of the 60 units will be affordable to low income persons and families. Convenience retail will be provided in the commercial area.					
SECTION 6 TAXPAYER CERTIFICATION					
I hereby certify that the representations in this statement are true.					
Signature of authorized representative 				Date signed (month, day, year) July 19, 2022	
Printed name of authorized representative Devereaux Peters				Title Managing Member	

**FOR USE OF THE DESIGNATING BODY**

We find that the applicant meets the general standards in the resolution adopted or to be adopted by this body. Said resolution, passed or to be passed under IC 6-1.1-12.1, provides for the following limitations:

- A. The designated area has been limited to a period of time not to exceed \_\_\_\_\_ calendar years\* (*see below*). The date this designation expires is \_\_\_\_\_.
- B. The type of deduction that is allowed in the designated area is limited to:  
 1. Redevelopment or rehabilitation of real estate improvements  Yes  No  
 2. Residentially distressed areas  Yes  No
- C. The amount of the deduction applicable is limited to \$ \_\_\_\_\_.
- D. Other limitations or conditions (*specify*) \_\_\_\_\_
- E. Number of years allowed:  Year 1  Year 2  Year 3  Year 4  Year 5 (\* see below)  
 Year 6  Year 7  Year 8  Year 9  Year 10
- F. For a statement of benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17?  
 Yes  No  
 If yes, attach a copy of the abatement schedule to this form.  
 If no, the designating body is required to establish an abatement schedule before the deduction can be determined.

We have also reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved ( <i>signature and title of authorized member of designating body</i> )	Telephone number ( )	Date signed ( <i>month, day, year</i> )
Printed name of authorized member of designating body	Name of designating body	
Attested by ( <i>signature and title of attester</i> )	Printed name of attester	

\* If the designating body limits the time period during which an area is an economic revitalization area, that limitation does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under IC 6-1.1-12.1-17.

- A. For residentially distressed areas where the Form SB-1/Real Property was approved prior to July 1, 2013, the deductions established in IC 6-1.1-12.1-4.1 remain in effect. The deduction period may not exceed five (5) years. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. The deduction period may not exceed ten (10) years. (See IC 6-1.1-12.1-17 below.)
- B. For the redevelopment or rehabilitation of real property where the Form SB-1/Real Property was approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. (See IC 6-1.1-12.1-17 below.)

**IC 6-1.1-12.1-17**

**Abatement schedules**

Sec. 17. (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

- (1) The total amount of the taxpayer's investment in real and personal property.
  - (2) The number of new full-time equivalent jobs created.
  - (3) The average wage of the new employees compared to the state minimum wage.
  - (4) The infrastructure requirements for the taxpayer's investment.
- (b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.
- (c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.





United States Postal Service

Supermarket & Mexican Mercantile

Nheniga Marketing

Fresh Air Custom Airbrushing

Alternate Source Recycling

Eddie Knight Drum Studios

S Main St

Edward Jones

W Monroe St

W Monroe St

E Monroe St

E Monroe St

E Monroe St

Reliable Parts

Hope Ministries - Soup Kitchen

Vickie's

305 S Michigan St  
South Bend, IN 46601

Mobil

Sterling Learning Center

St Peter Claver House

S St Joseph St

Dismas House of Indiana

933

31

31

Midas Auto repair shop

S Michigan St

Red Ronnie Services

S Main St

South St

W South St

W South St

W South St

E South St

E South St

E South St





505 S Michigan - South Bend, IN

OPTION A - 01  
6/27/22

PAPAGEORGE  
HAYMES





**505 S Michigan - South Bend, IN**

**OPTION A - 07**  
6/27/22

**PAPPAGEORGE  
HAYMES**

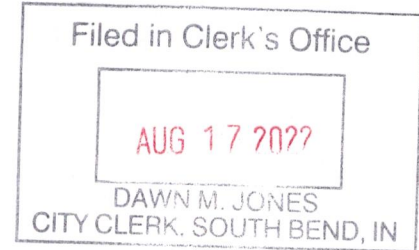


# BILL NO. 30-22



## City of South Bend PLAN COMMISSION

County-City Building  
227 W. Jefferson Blvd. 1400S  
South Bend, IN 46601  
(574) 235-7627  
www.southbendin.gov/zoning



Tuesday, August 16, 2022

South Bend Common Council  
227 W. Jefferson Blvd., 4<sup>th</sup> Floor  
South Bend, IN 46601

Re: Bill#30-22 - A proposed ordinance of FOX REAL ESTATE LLP to zone from S1 Suburban Neighborhood 1 to C Commercial, property located at 4427 BROOKTON DR and 1335 IRELAND RD, City of South Bend - PC# 0105-22

Dear Council Members:

I hereby Certify that the above referenced ordinance of FOX REAL ESTATE LLP was legally advertised on July 8, 2022 and that the South Bend Plan Commission at its public hearing on August 15, 2022 took the following action:

Upon a motion by Kyle Copelin, being seconded by Jason Piontek and unanimously carried, a proposed ordinance of FOX REAL ESTATE LLP to zone from S1 Suburban Neighborhood 1 to C Commercial, property located at 4427 BROOKTON DR and 1335 IRELAND RD, City of South Bend, is sent to the Common Council with an **UNFAVORABLE recommendation**.

The staff report is attached. The deliberations of the Plan Commission and points considered in arriving at the above decision are shown in the minutes of the public hearing. Minutes of the public hearing are available in our office and will be posted on our website once approved.

Sincerely,

Angela M. Smith  
Zoning Administrator

Attachment

CC: FOX REAL ESTATE LLP  
Bob Palmer

---

**Tim Corcoran**  
*Planning Director*

**Angela Smith**  
*Zoning Administrator*

**Scott Ford**  
*Commission President*

Filed in Clerk's Office

AUG 17 2022

DAWN M. JONES  
CITY CLERK, SOUTH BEND, IN

**BILL NO. 30-22**

**ORDINANCE NO. 10866-22**

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED  
1335 EAST IRELAND AND 4427 SOUTH BROOKTON, COUNCILMANIC DISTRICT  
NO. 5 IN THE CITY OF SOUTH BEND, INDIANA**

---

**STATEMENT OF PURPOSE AND INTENT**

Petitioners desire to rezone the property from S1 Suburban Neighborhood 1 to C Commercial District to build an automotive repair business.

---

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

**SECTION I.** Ordinance No. 10689-19, which ordinance is commonly known as the Zoning Ordinance of the City of South Bend, Indiana, be and the same hereby amended in order that the zoning classification of the following described real estate in the City of South Bend, St. Joseph County, State of Indiana:

LOTS 245 AND 246 OF THE REVISED PLAT OF BROADMOOR SECTION 3

be and the same is hereby established as C Commercial District

**SECTION II.** This ordinance is and shall be subject to commitments as provided by Chapter 21-12.07(f)(7) Commitments, if applicable.

**SECTION III.** This Ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor, and legal publication, and full execution of any conditions or Commitments placed upon the approval.

---

Sharon McBride, Council President  
South Bend Common Council

Attest:

\_\_\_\_\_  
Dawn M. Jones, 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 \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_ .m.

\_\_\_\_\_  
Dawn M. Jones, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_ o'clock \_\_\_\_ .m.

\_\_\_\_\_  
James Mueller, Mayor  
City of South Bend, Indiana



**Property Information**

Location: 4427 BROOKTON DR and 1335 IRELAND RD  
Owner: FOX REAL ESTATE LLP

**Requested Action**

Rezone from S1 Suburban Neighborhood 1 to C Commercial

**Project Summary**

Rezone the subject property to allow for Automobile Repair Shop

Filed in Clerk's Office  
AUG 17 2022  
DAWN M. JONES  
CITY CLERK, SOUTH BEND, IN

**Location Map**



**Recommendation**

**Staff Recommendation:** Based on the information available to the public hearing, the staff recommends the Commission send the petition to the Common Council with an unfavorable recommendation. If approved by the Council, the staff recommends the Commission encourage the Council to impose the suggested written commitments to lessen the impact on the neighborhood.



Proposed Site Plan



LOTS 245 AND 246 REVISED PLAT OF BROADMOOR THIRD SECTION 19.530 SF / 0.45 ACRES

TMT AUTOMOTIVE  
 1335 EAST IRELAND ROAD  
 SOUTH BEND, INDIANA

CONCEPTUAL SITE LAYOUT PLAN

PROJECT NO.:  
 PROJECT DATE:  
 PROJECT LOCATION:  
 PROJECT OWNER:  
 PROJECT CONTACT:  
 PROJECT PHONE:  
 PROJECT FAX:

DRAWN BY:  
 CHECKED BY:  
 DATE:  
 SCALE:  
 SHEET NO.: 21-1830  
 SHEET TOTAL: 1 of 1

## Site & Context

### Land Uses and Zoning:

On site: Is a single family home and a vacant lot

North: To the north are single family homes zoned S1 Suburban Neighborhood 1.

East: To the east, across Brookton, are single family homes zoned S1 Suburban Neighborhood 1

South: To the south, across Ireland is a financial institution and multi-tenant commercial space zoned C Commercial

West: To the west is a restaurant zoned C Commercial.

### District Intent:

The C District is established to provide a location for medium- to high-intensity commercial uses that are auto-oriented, typically located along major corridors at the fringe of the City or as small groupings located outside of neighborhood centers.

### Site Plan Description:

The proposed site includes an automotive repair building with the associated parking and drives. The site plan provided does not meet the standards of the C Commercial District and will need to be modified to meet compliance, or seek approval for variances from the Board of Zoning Appeals.

### Zoning and Land Use History and Trends:

This neighborhood was one of the first residential subdivisions developed in the early 1950's. By the mid-60's, additional residential neighborhoods had developed south of Ireland Road. As the residential area grew, a small neighborhood commercial center was built at the intersection of Miami and Ireland. The construction of the mall on the south side of Ireland Road in 1972 began to change the character of the area. Increasing commercial pressure along Ireland Road led to the introduction of gas stations and more intense commercial development. The failure of the mall led to the redevelopment of the area around 2005. Since then, commercial has struggled in the complex with only a few anchors surviving and large turnover and high vacancies in the complex.

The residential structure at 1335 Ireland was demolished in the mid-1990's. The foundation remained for several years until it was replaced by trees, which helped to serve as a buffer between the residential properties to the north and the commercial development to the south. The corner property was recently cleared (between 2017 and 2019) with the home at 4427 Brookton still remaining.

### Traffic and Transportation Considerations:

Ireland Road expands from a four lane road to four lanes with a center turn lane just west of this site. Brookton is a two lane residential street with unmarked on-street parking.

## Agency Comments

### Agency Comments:

There are no agency comments at this time. Agencies will fully review the development at the time of site development.

### Staff Comments:

While the property across the Ireland is zoned C Commercial, the bank is a very low intensity land-use. Broadmoor is a well established residential neighborhood. Demolishing a home and introducing more commercial in the front yard of existing homes may start to destabilize this



section of the neighborhood. If this property is rezoned, any use allowed in the C Commercial District could locate on this property.

## Criteria for Decision Making

### Rezoning

Per State Law, the Plan Commission and Common Council shall pay reasonable regard to:

#### 1. Comprehensive Plan:

##### Policy Plan:

This petition is not consistent with City Plan (2006) Policy LU 2.4 Provide buffer spaces between non-compatible land uses or Policy H2.5 Pursue alternatives to the demolition of structurally sound housing.

##### Land Use Plan:

This property is adjacent to a regional commercial node identified on the land use plan.

##### Plan Implementation/Other Plans:

There are not other plans for the area.

#### 2. Current Conditions and Character:

Ireland Road is a mix of commercial and residential with two intense commercial nodes at the intersections of Ireland with Miami and Ironwood. The two nodes are dissected by a traditional single family neighborhood.

#### 3. Most Desirable Use:

The most desirable use of the property is one that would not require the demolition of the existing single-family home. A slightly higher intensity use could buffer the residential properties from the large commercial development to the south. The property is well suited for medium density residential, such as that found in the U2 District, or small scale office/retail uses, such as those found in the UF District.

#### 4. Conservation of Property Values:

A development of this nature could have a significant negative impact on the use and value of adjacent properties. Allowing the commercial to encroach into the neighborhood would not only significantly impact the homes immediately adjacent to the property, but may result in the destabilization of the neighborhood and encourage further commercial pressure on the existing homes along Ireland Road.

#### 5. Responsible Development and Growth:

It is not responsible development and growth to allow commercial uses to encroach into established residential neighborhood. The Comprehensive Plan emphasizes the need for buffer areas between incompatible uses and preserve the existing housing in the area.

## Analysis & Recommendation

**Commitments:** If the petition is approved, the following commitments should be considered: 1) provide a 25' minimum corner setback on Brookton; 2) no access to Brookton; 3) no drive-through facility shall be permitted; 4) no off-premise signs shall be permitted; 5) NC Neighborhood Center District building standards should be applied.



**Analysis:** Rezoning this property to C Commercial could have a substantial negative impact on the adjacent residential neighborhood. Since the neighborhood was developed in the early 1950's, the area has undergone a significant change. What was developed as a small neighborhood commercial area to the west in the 1960's has grown to a large regional commercial node. Allowing the commercial zoning to further encroach into the neighborhood will likely destabilize the existing neighborhood and increase pressure for additional commercial development along Ireland Road.

**Recommendation:** Based on the information available to the public hearing, the staff recommends the Commission send the petition to the Common Council with an unfavorable recommendation. If approved by the Council, the staff recommends the Commission encourage the Council to impose the suggested written commitments to lessen the impact on the neighborhood.

# BILL NO. 36-22



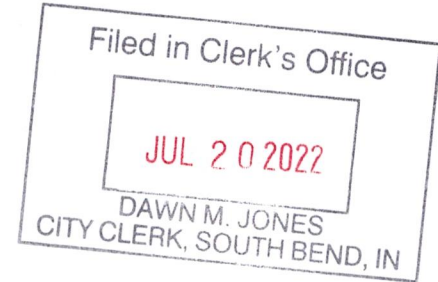
## City of South Bend PLAN COMMISSION

County-City Building  
227 W. Jefferson Blvd. 1400S  
South Bend, IN 46601  
(574) 235-7627  
www.southbendin.gov/zoning

July 20, 2022

Honorable Committee Chair Hamann  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601

RE: 300 S St. Louis Blvd PC#0112-22



Dear Committee Chair Hamann:

Enclosed is an Ordinance for the proposed Zone Map Amendment at the above referenced location. Please include the attached Ordinance on the Council agenda for first reading at your July 25<sup>th</sup> Council meeting and set it for public hearing at your August 22<sup>nd</sup> Council meeting. The petition is tentatively scheduled for public hearing at the August 15, 2022, South Bend Plan Commission meeting. The recommendation of the South Bend Plan Commission will be forwarded to the Office of the City Clerk by noon on the day following the public hearing.

The petitioner provided the following to describe the proposed project:

Request to rezone the properties from NC Neighborhood Center to U3 Urban Neighborhood 3

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

Sincerely,



Rachel Boyles  
Zoning Specialist

CC: Bob Palmer

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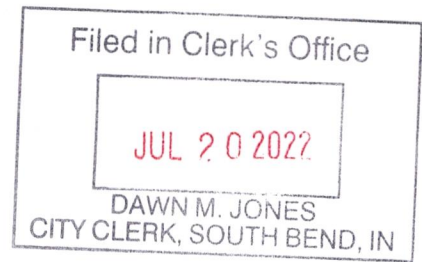
**Tim Corcoran**  
Planning Director

**Angela Smith**  
Zoning Administrator

**Scott Ford**  
Commission President

**BILL NO. 36-22**

**ORDINANCE NO.**



**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED 300  
ST LOUIS BLVD. COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND,  
INDIANA**

---

**STATEMENT OF PURPOSE AND INTENT**

Request to rezone the properties from NC Neighborhood Center to U3 Urban Neighborhood 3 to  
unify the zoning of a split zoned lot

---

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

**SECTION I.** Ordinance No. 10689-19, which ordinance is commonly known as the Zoning  
Ordinance of the City of South Bend, Indiana, be and the same hereby amended in order that the  
zoning classification of the following described real estate in the City of South Bend, St. Joseph  
County, State of Indiana:

300 S St. Louis Blvd. South Bend, IN 46617 018-6002-0031

be and the same is hereby established as U3 Urban Neighborhood 3 District

**SECTION II.** This ordinance is and shall be subject to commitments as provided by Chapter 21-  
12.07(f)(7) Commitments, if applicable.

**SECTION III.** This Ordinance shall be in full force and effect from and after its passage by the  
Common Council and approval by the Mayor, and legal publication, and full execution of any  
conditions or Commitments placed upon the approval.

---

Sharon McBride, Council President  
South Bend Common Council

Attest:

---

Dawn M. Jones, 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 \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_ .m.

---

Dawn M. Jones, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_ o'clock \_\_\_\_ .m.

---

James Mueller, Mayor  
City of South Bend, Indiana



# City of South Bend PLAN COMMISSION

JUL 20 2022

DAWN M. JONES  
CITY CLERK - SOUTH BEND, IN

## Petition for Rezoning or Combined Public Hearing

### Property Information

Tax Key Number: Part of 018-6002-0031

Address: 300 South St. Louis Boulevard

Owner: River City Real Estate, LLC

Legal Description:

See attached "EXHIBIT A"

The purchaser/developer "River Walk, LLC" hereby agrees to cover any and all rezoning fees if in the event that this contemplated development project is not completed and the Subject Property therefore needs to be rezoned back to it's current zoned commercial use (NC).

### Project Summary

Rezone approximately 0.10 acres of land to match the existing adjacent zoning to the south to allow for the construction of a townhome project as a part of the overall River Walk development.

### Requested Action

Application includes (check all that apply)

Rezoning

Current District: NC Neighborhood Center

Additional Districts, if applicable

Proposed District: U3 Urban Neighborhood 3

Additional Districts, if applicable

*The Plan Commission and Council will consider the following in the review of a rezoning petition:*

- (1) The comprehensive Plan;*
- (2) Current conditions and the character of the current structures and uses in each district;*
- (3) The most desirable use for which the land in each district is adapted;*
- (4) The conservation of property values throughout the jurisdiction; and*
- (5) Responsible development and growth.*

Subdivision – *complete and attach subdivision application*

Special Exception – *complete and attach Criteria for Decision Making*

Use requested: \_\_\_\_\_

Variance(s) - *List variances below, complete and attach Criteria for Decision Making*

Variance(s) requested: \_\_\_\_\_

### Required Documents

Completed Application (including Contact Information)

Site Plan drawn to scale

Filing Fee

Additional documents as noted above

**Contact information**

**Property owner(s) of the petition site:**

Name: River City Real Estate LLC (Owner)

Address: 1340 East Colfax Avenue  
South Bend, Indiana 46617

Name: River Walk LLC (Purchaser/Developer)

Address: 314 West Catalpa, Suite E  
Mishawaka, Indiana 46545

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

**Contact Person:**

Name: Jeffrey Schaffer, Abonmarche

Address: 315 West Jefferson Boulevard  
South Bend, Indiana 46601

Phone Number: (574) 232-8700 x 240

E-mail: jschaffer@abonmarche.com

**By signing this petition, the Petitioner/Property Owners of the above described Real Estate acknowledge they are responsible for understanding and complying with the South Bend Zoning Ordinance and any other ordinance governing the property. Failure of staff to notify the petitioner of a requirement does not imply approval or waiver from anything contained within the ordinance.**

**The undersigned authorizes the contact person listed above to represent this petition before the South Bend Plan Commission and Common Council and to answer any and all questions related to this petition.**

**Property Owner (s) Signatures:**

DocuSigned by:  
Mary Hope Griffin  
147928C174BB443...

DocuSigned by:  
Brandon Babukovic  
8A4C77BF168C4BB...

DocuSigned by:  
Christine Coulter  
E7D42248C74442A...

DocuSigned by:  
Rebekah Kottkamp  
54E14D14E7754F1...







# BILL NO. 38-22

## City of South Bend PLAN COMMISSION

County-City Building  
227 W. Jefferson Blvd. 1400S  
South Bend, IN 46601  
(574) 235-7627  
[www.southbendin.gov/zoning](http://www.southbendin.gov/zoning)

July 20, 2022

Honorable Committee Chair Hamann  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601

RE: 232 LaPorte Ave PC#0109-22

Dear Committee Chair Hamann:

Enclosed is an Ordinance for the proposed Zone Map Amendment at the above referenced location. Please include the attached Ordinance on the Council agenda for first reading at your July 25<sup>th</sup> Council meeting and set it for public hearing at your August 22<sup>nd</sup> Council meeting. The petition is tentatively scheduled for public hearing at the August 15, 2022, South Bend Plan Commission meeting. The recommendation of the South Bend Plan Commission will be forwarded to the Office of the City Clerk by noon on the day following the public hearing.

The petitioner provided the following to describe the proposed project:

Request to rezone the properties from U1 Urban Neighborhood 1 to U2 Urban Neighborhood 2

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

Sincerely,

Rachel Boyles  
Zoning Specialist

CC: Bob Palmer

Filed in Clerk's Office

JUL 20 2022

DAWN M. JONES  
CITY CLERK, SOUTH BEND, IN

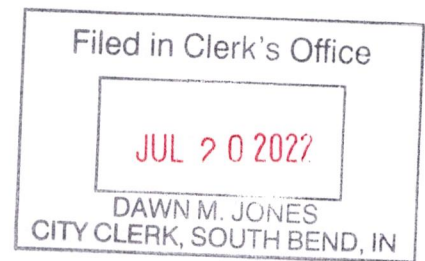
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**Tim Corcoran**  
Planning Director

**Angela Smith**  
Zoning Administrator

**Scott Ford**  
Commission President

**BILL NO. 38-22**  
**ORDINANCE NO.**



**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED 232 LAPORTE AVE COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA**

---

**STATEMENT OF PURPOSE AND INTENT**

Request to rezone the properties from U1 Urban Neighborhood 1 to U2 Urban Neighborhood 2 to establish compliance from a legal non-conforming use

---

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

**SECTION I.** Ordinance No. 10689-19, which ordinance is commonly known as the Zoning Ordinance of the City of South Bend, Indiana, be and the same hereby amended in order that the zoning classification of the following described real estate in the City of South Bend, St. Joseph County, State of Indiana:

232 LaPorte Ave South Bend, IN 46616 018-1027-1185

be and the same is hereby established as U2 Urban Neighborhood 2 District

**SECTION II.** This ordinance is and shall be subject to commitments as provided by Chapter 21-12.07(f)(7) Commitments, if applicable.

**SECTION III.** This Ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor, and legal publication, and full execution of any conditions or Commitments placed upon the approval.

---

Sharon McBride, Council President  
South Bend Common Council

Attest:

---

Dawn M. Jones, 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 \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_ .m.

---

Dawn M. Jones, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_ o'clock \_\_\_\_ .m.

---

James Mueller, Mayor  
City of South Bend, Indiana

City of South Bend  
PLAN COMMISSION

Filed in Clerk's Office

JUL 20 2022

227 W. Jefferson - Suite 1400S  
South Bend, IN 46601  
zoning@southbendin.gov

**Petition for Rezoning or Combined Public Hearing**

**Property Information**

Tax Key Number: 018-1027-1185

Address: 232 LaPorte Ave, South Bend IN 46616

Owner: Eddy Stephen J & Joan E As trustees of Stephen J Eddy Living Trust

Legal Description:

11 Ft N Side Lot 57 & Ex 45.2 X 66 Ft Ne Part Ex 11.2 Ft N End W End Lot 56 COBBS SUB BOL 30

**Project Summary**

Approval of non conforming existing use as a three unit apartment house (Triplex)

**Requested Action**

Application includes (check all that apply)

Rezoning

Current District: U1 Urban Neighborhood 1

Additional Districts, if applicable

Proposed District: U2 Urban Neighborhood 2

Additional Districts, if applicable

*The Plan Commission and Council will consider the following in the review of a rezoning petition:*

- (1) The comprehensive Plan;
- (2) Current conditions and the character of the current structures and uses in each district;
- (3) The most desirable use for which the land in each district is adapted;
- (4) The conservation of property values throughout the jurisdiction; and
- (5) Responsible development and growth.

Subdivision – complete and attach subdivision application

Special Exception – complete and attach Criteria for Decision Making

Use requested: legal non conforming use

Variance(s) - List variances below, complete and attach Criteria for Decision Making

Variance(s) requested:

**Required Documents**

- Completed Application (including Contact Information)
- Site Plan drawn to scale
- Filing Fee
- Additional documents as noted above

**Contact information**

**Property owner(s) of the petition site:**

Name: Stephen J. Eddy & Joan E. Eddy

Address: 23600 Roosevelt Road,  
South Bend, IN 46614

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

**Contact Person:**

Name: Stephen J. Eddy

Address: 23600 Roosevelt Road  
South Bend, IN 46614

Phone Number: 574 289 9365 home 574 289 9353 Cell

E-mail: sjeddy61@earthlink.net

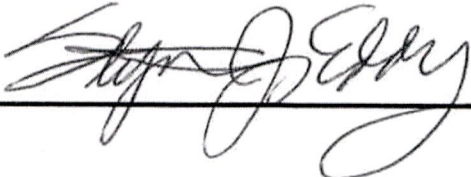
**By signing this petition, the Petitioner/Property Owners of the above described Real Estate acknowledge they are responsible for understanding and complying with the South Bend Zoning Ordinance and any other ordinance governing the property. Failure of staff to notify the petitioner of a requirement does not imply approval or waiver from anything contained within the ordinance.**

**The undersigned authorizes the contact person listed above to represent this petition before the South Bend Plan Commission and Common Council and to answer any and all questions related to this petition.**

Property Owner (s) Signatures:

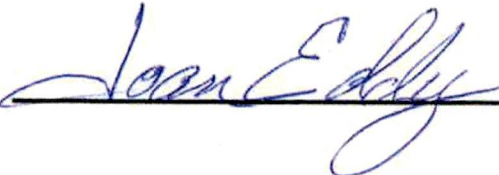
**Stephen J. Eddy**

Digitally signed by Stephen J. Eddy  
DN: cn=Stephen J. Eddy, o, ou,  
email=sjeddy51@earthlink.net, c=US  
Date: 2022.07.06 17:06:14 -04'00'



**Joan E. Eddy**

Digitally signed by Joan E. Eddy  
DN: cn=Joan E. Eddy, o, ou,  
email=joan.eddy@earthlink.net, c=US  
Date: 2022.07.06 17:09:37 -04'00'





## Criteria for Decision Making

### Special Exception - *if applicable*

A Special Exception may only be granted upon making a written determination, based upon the evidence presented at a public hearing. Please address how the project meets the following criteria.

**(1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare, because:**

The existing residence has been used as a triplex for many years. We have owned it for almost 40 years. We lived there for ten years and have rented all or parts of the home for the entire time. There is no record of any problems related to the property (city attorney record letter attached). The property is well maintained and arguably the best kept house on the street. The use would continue to be apartment rental with three units (currently two one bedroom and one that could be two bedrooms.) The units are small and therefore rent to single occupants and occasional couples. The density of occupancy is lower than most of the single family properties in the

**(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein, because:**

If anything the continued use is an asset to the adjacent area. It is maintained above the current standards of the surrounding homes and adds to the value of the neighborhood. The neighboring home at 222 LaPorte has been a single family rental for years and is not an asset to the neighborhood..

**(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein, because:**

It is one of the first homes in the neighborhood (built in 1886) and would be considered a single family home in appearance with one of the largest yards. If anything it adds to the character of the neighborhood. Duplexes are allowed in the current zoning and this residence has less density and occupancy than most duplexes. You would not know it was a triplex unless you counted the meters or mail boxes. It meets the requirements for U1 and U2 zoning under typical characteristics.

**(4) The proposed use is compatible with the recommendations of the Comprehensive Plan, because:**

The only requirement for U1 zoning it does not meet is the number of units. The city is encouraging multiple family zoning and higher density in the urban districts including ADUs. Given the area and lot size this triplex is well under and density and does not exceed and occupancy levels.

## Criteria for Decision Making

### Variance(s) - if applicable

State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. Please address how the project meets the following criteria:

**(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community, because:**

It is similar use and occupancy as the existing neighborhood and poses no issue regarding public health, safety, morals and general welfare of the community,

**(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner, because:**

Nothing changes. The adjacent properties are similar in nature. If anything this residence adds to the value of the neighborhood.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property, because:**

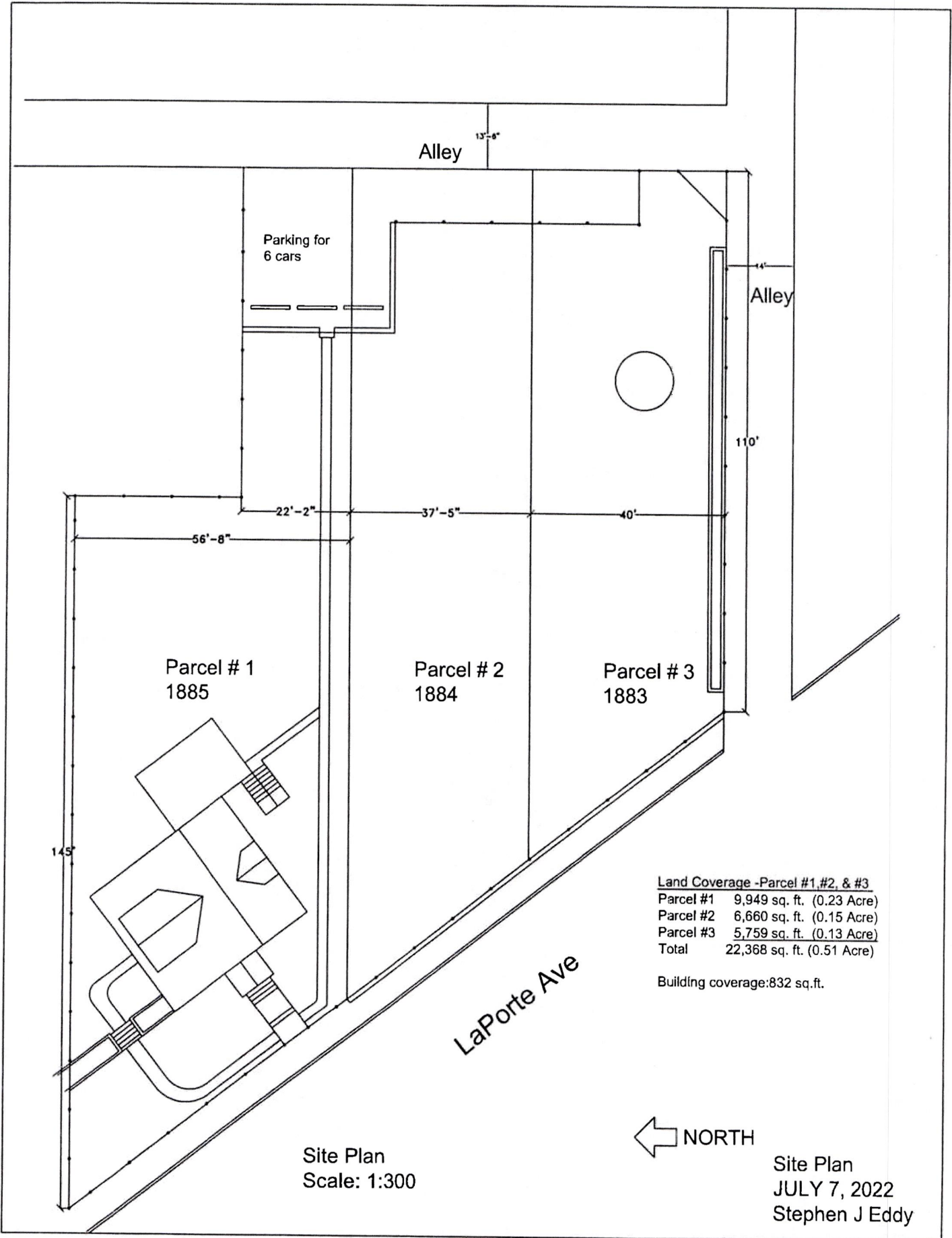
This residence has been used as a triplex for some time. Converting it to a duplex or single family home while possible limits and lowers the value of the property.

**(4) The variance granted is the minimum necessary, because:**

It allows the sale of the property to potential buyer and eliminates the cost of any conversion.

**(5) The variance does not correct a hardship caused by a former or current owner of the property, because:**

It remains the same current use.



Parcel # 1  
1885

Parcel # 2  
1884

Parcel # 3  
1883

Land Coverage -Parcel #1, #2, & #3

Parcel #1	9,949 sq. ft. (0.23 Acre)
Parcel #2	6,660 sq. ft. (0.15 Acre)
Parcel #3	5,759 sq. ft. (0.13 Acre)
<b>Total</b>	<b>22,368 sq. ft. (0.51 Acre)</b>

Building coverage:832 sq.ft.

Site Plan  
Scale: 1:300



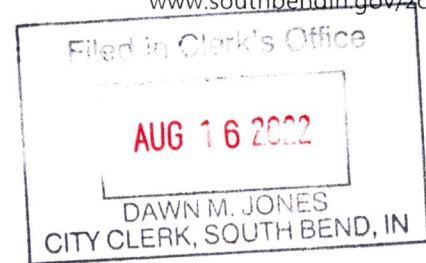
Site Plan  
JULY 7, 2022  
Stephen J Eddy





City of South Bend  
**PLAN COMMISSION**

County-City Building  
227 W. Jefferson Blvd. 1400S  
South Bend, IN 46601  
(574) 235-7627  
[www.southbendin.gov/zoning](http://www.southbendin.gov/zoning)



Tuesday, August 16, 2022

South Bend Common Council  
227 W. Jefferson Blvd., 4<sup>th</sup> Floor  
South Bend, IN 46601

Re: Bill#38-22 - A proposed ordinance of STEPHEN J & JOAN E EDDY AS TRUSTEES OF STEPHEN J EDDY LIVING TRUST & RES LIFE EST to zone from U1 Urban Neighborhood 1 to U2 Urban Neighborhood 2 and seeking a Special Exception Use to allow to allow a conversion to add one or more dwelling units to the existing structure, property located at 232 LAPORTE AVE, City of South Bend - PC# 0109-22

Dear Council Members:

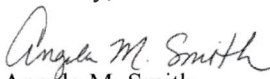
I hereby Certify that the above referenced ordinance of STEPHEN J & JOAN E EDDY AS TRUSTEES OF STEPHEN J EDDY LIVING TRUST & RES LIFE EST was legally advertised on August 5, 2022 and that the South Bend Plan Commission at its public hearing on August 15, 2022 took the following action:

Upon a motion by Jason Piontek, being seconded by Caitlin Stevens and unanimously carried, a proposed ordinance of STEPHEN J & JOAN E EDDY AS TRUSTEES OF STEPHEN J EDDY LIVING TRUST & RES LIFE EST to zone from U1 Urban Neighborhood 1 to U2 Urban Neighborhood 2, property located at 232 LAPORTE AVE, City of South Bend, is sent to the Common Council with a **FAVORABLE** recommendation.

Upon a motion by Jason Piontek, being seconded by Caitlin Stevens and unanimously carried, a Special Use for to allow a conversion to add one or more dwelling units to the existing structure property located at 232 LAPORTE AVE, City of South Bend, is sent to the Common Council with a **FAVORABLE recommendation.**

The staff report is attached. The deliberations of the Plan Commission and points considered in arriving at the above decision are shown in the minutes of the public hearing, Minutes of the public hearing are available in our office and will be posted on our website once approved.

Sincerely,

  
Angela M. Smith  
Zoning Administrator

Attachment

CC: STEPHEN J & JOAN E EDDY AS TRUSTEES OF STEPHEN J EDDY LIVING TRUST &  
RES LIFE EST  
Bob Palmer

---

**Tim Corcoran**  
*Planning Director*

**Angela Smith**  
*Zoning Administrator*

**Scott Ford**  
*Commission President*

**Property Information**

Location: 232 LAPORTE AVE  
Owner: STEPHEN J & JOAN E EDDY AS TRUSTEES OF STEPHEN J EDDY LIVING TRUST & RES LIFE EST

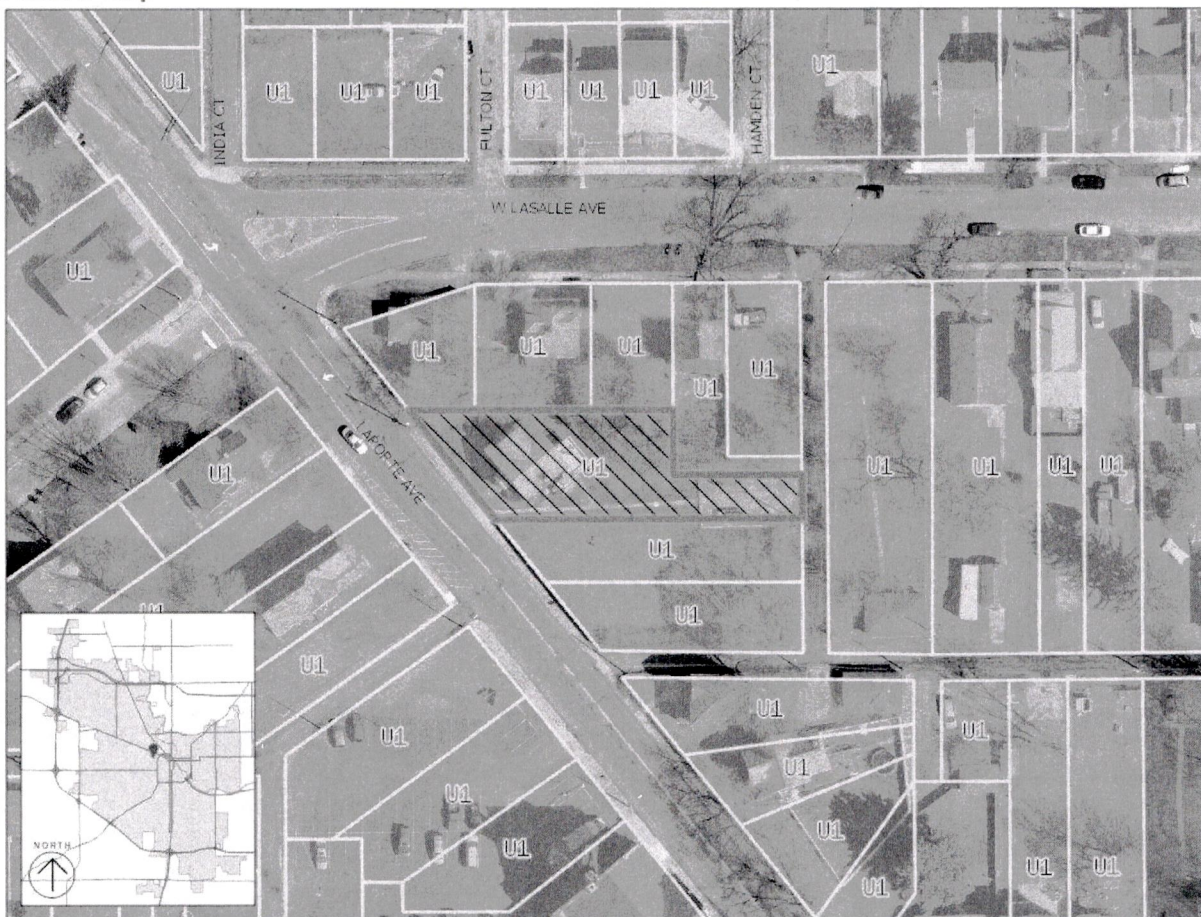
**Requested Action**

Rezone from U1 Urban Neighborhood 1 to U2 Urban Neighborhood 2  
Special Exception: to allow a conversion to add one or more dwelling units to the existing structure

**Project Summary**

To allow a nonconforming existing use as a three unit apartment house (Triplex) to remain

**Location Map**



**Recommendation**

**Staff Recommendation:** Based on information available prior to the public hearing, the staff recommends the Commission send the petition to the Common Council with a favorable recommendation, subject to acquiring a Certificate of Rental Safety from Code Enforcement.



Proposed Site Plan





**Site & Context**

**Land Uses and Zoning:**

- On site: On Site is a residential structure already in use as a multi-unit dwelling.
- North: Several residential structures and a vacant lot zoned U1 Urban Neighborhood 1.
- East: Residential Structures zoned U1 Urban Neighborhood 1.
- South: Vacant lot zoned U1 Urban Neighborhood 1.
- West: Across LaPorte Ave property zoned U1 Urban Neighborhood 1.

**District Intent:**

The U2 District is established to provide for, promote, and maintain the development of diverse housing types in urban neighborhoods located near neighborhood centers in core and outlying areas of the City.

**Site Plan Description:**

The current site plan shows no major alterations to the existing site.

**Zoning and Land Use History and Trends:**

The neighborhood was largely established in the late 1800s as a walkable urban single family neighborhood consisting of single family homes with the occasional duplex or triplex, accessed by rear alleys.

Through the last few decades, the neighborhood has experienced severe population decline, resulting in large sections of the neighborhood consisting of numerous vacant lots. Recent public-private partnerships with neighborhood groups have resulted in the construction of new residential units in the area.

**Traffic and Transportation Considerations:**

LaPorte Ave is a two lane street with no on-street parking. LaSalle Ave is a narrow two lane street with on-street parking in limited locations.

**Agency Comments**

**Agency Comments:**

There are no additional comments at this time.

**Staff Comments:**

The property has been used as a multi-family dwelling for many years. However, the conversion from a two-family to a three-family cannot be documented. The proposed rezoning and special expection will legalize the current use of the structure. The residential character of the dwellign has not change.

**Criteria for Decision Making**

**Rezoning**

**Per State Law, the Plan Commission and Common Council shall pay reasonable regard to:**

**1. Comprehensive Plan:**

**Policy Plan:**

The petition is consistent with the City Plan, South Bend Comprehensive Plan (2006), Objective H 1: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of households now and in the future.

**Land Use Plan:**

The Future Land Use Plan identifies this area for Medium Density Residential, which would allow for a range of neighborhood - scaled residential housing types.

**Plan Implementation/Other Plans:**

The proposed Kennedy Park Neighborhood plan proposes this site as U2 Urban Neighborhood 2.

**2. Current Conditions and Character:**

The existing neighborhood was a dense urban single-family neighborhood. Over time, the demolition of homes has resulted in an increased number of vacant lots and population decline. Most of the homes in the neighborhood date from the late 1800s. A mix of multi-unit residential has developed on various sites throughout the neighborhood, most of which were single unit structures than have been converted.

**3. Most Desirable Use:**

The most desirable use is for low to medium density residential housing that will seamlessly fit the established character of the neighborhood.

**4. Conservation of Property Values:**

Allowing for the continued use of the property should help stabilize property values throughout the area as opposed to the building being torn down.

**5. Responsible Development and Growth:**

It is responsible development and growth to allow for a variety of housing options within this neighborhood.

**Special Exception**

**The petitioner is seeking a Special Exception to allow:**

to allow a conversion to add one or more dwelling units to the existing structure

**A Special Exception may only be granted upon making a written determination, based upon the evidence presented at a public hearing, that:**

**(1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;**

The proposed use should not be injurious to the public health, safety morals or general welfare of the community. The general welfare and stability of the community could benefit from the increased variety of housing types. Approval of the Special Exception should not affect the general welfare of the community, the residence has operated as a two unit and three unit residence for the past 40 years.

**(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;**

Allowing the existing three unit residential dwelling should not injure or adversely affect the use or value of the adjacent area or property values, provided the current residential character is maintained. The current elevations of the building preserve the single unit appearance.

**(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;**

This three unit dwelling will be consistent with the character of the district and neighborhood in both use and style of construction.

**(4) The proposed use is compatible with the recommendations of the Comprehensive Plan.**

The petition is consistent with the City Plan, South Bend Comprehensive Plan (2006) Objective H1.1: Encourage residential developments to contain a mix of housing types, densities, price ranges, and amenities. The proposed Kennedy Park Neighborhood Plan shows this area as U2 Urban Neighborhood 2.



## Analysis & Recommendation

**Commitments:** There are no commitments proposed at this time.

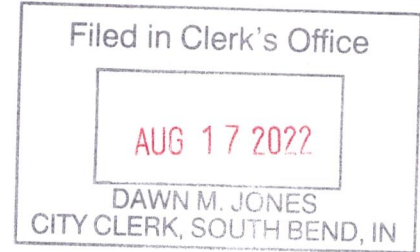
**Analysis:** Rezoning the site to U2 Urban Neighborhood 2 District will allow for the structure to continue to be used as a multi-unit dwelling, which will provide increased housing options while not drastically changing the established character of the neighborhood.

**Recommendation:** Based on information available prior to the public hearing, the staff recommends the Commission send the petition to the Common Council with a favorable recommendation, subject to acquiring a Certificate of Rental Safety from Code Enforcement.



# BILL NO. 40-22

## City of South Bend BOARD OF ZONING APPEALS



August 17, 2022

Honorable Lori Hamann  
4th Floor, County-City Building  
South Bend, IN 46601

RE: Special Exception Use at 1702 W Western Ave

Dear Committee Chair Hamann:

Enclosed is an Ordinance for the proposed Special Exception Use at the above referenced location. Please include the attached Ordinance on the Council agenda for **first reading** at your **August 22, 2022**, Council meeting and set it for public hearing at your **September 12, 2022**, Council meeting. The petition is tentatively scheduled for public hearing at the September 6, 2022, South Bend Board of Zoning Appeals meeting. The staff report and recommendation of the South Bend Board of Zoning Appeals will be forwarded to the Office of the City Clerk by noon on the Wednesday following the public hearing.

The petitioner provided the following to describe the proposed project:

*The current owners have entered into a purchase agreement on the subject building to sell to A&M Wireless, Inc (Boost Mobile Cellular Store) owned by Amar Preet Singh. The sale is subject to approval by the City of South Bend for its special exception use.*

The full petition is attached for your reference. Changes may occur between the filing and the public hearing. Any substantial changes will be identified at the Council meeting.

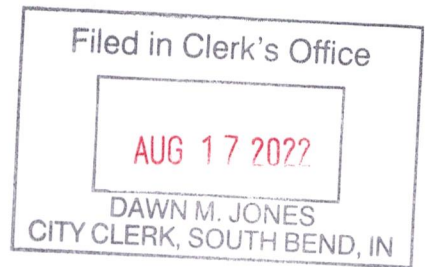
If you have any questions, please feel free to contact our office.

Sincerely,

A handwritten signature in black ink that reads "Rachel Boyles".

Rachel Boyles  
Zoning Specialist

CC: Bob Palmer



**BILL NO. 40-22**

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

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 1702 W WESTERN AVE COUNCILMANIC DISTRICT NO. 6 IN THE CITY OF SOUTH BEND, INDIANA**

**STATEMENT OF PURPOSE AND INTENT**

**Request a Special Exception to allow for the use of general retail and services.**

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

**SECTION I.** The Common Council has provided notice of the hearing on the Petition from the Advisory Board of Zoning Appeals pursuant to Indiana Code Section 5-14-1.5-5, requesting that a Special Exception be granted for property located at:

1702 W Western Ave 018-4012-0391

In order to permit Retail & Services, General

**SECTION II.** Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the petition of the Advisory Board of Zoning Appeals, a copy of which is on file in the Office of the City Clerk.

**SECTION III.** The Common Council of the City of South Bend, Indiana, hereby finds that:

1. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience, or general welfare;
2. The proposed use will not injure or adversely affect the use of adjacent area of property values therein;
3. The proposed use will be consistent with the character of the district in which it is located, and the land uses authorized therein;
4. The proposed use is compatible with the recommendations of the City of South Bend Comprehensive Plan;

**SECTION IV.** Approval is subject to the Petitioner complying with the reasonable conditions, if any, established by the Advisory Board of Zoning Appeals which are on file in the Office of the City Clerk.

**SECTION V.** This Ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor, and legal publication, and full execution of any conditions or Commitments placed upon the approval.

\_\_\_\_\_  
Sharon McBride, Council President  
South Bend Common Council

Attest:

\_\_\_\_\_  
Dawn M. Jones, 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 \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_ .m.

\_\_\_\_\_  
Dawn M. Jones, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_ o'clock \_\_\_\_ .m.

\_\_\_\_\_  
James Mueller, Mayor  
City of South Bend, Indiana



City of South Bend  
**BOARD OF ZONING APPEALS**

RECEIVED AUG 08 2022  
200 W. Jefferson - Suite 1400S  
South Bend, IN 46601  
zoning@southbendin.gov

**Petition for Variance - Special Exception**

**Property Information**

Tax Key Number: 71-08-10-428-015.000-026 Parcel ID: 018-4012-0391

Address: 1702 W. Western Avenue, South Bend, IN 46619

Owner: Andrew J., John T. and Michael J. Hoffman

Zoning: UF Urban Flex



**Project Summary:**

The current owners have entered into a purchase agreement on the subject building to sell to A&M Wireless, Inc (Boost Mobile Cellular Store) owned by Amar Preet Singh. The sale is subject to approval by the City of South Bend for its special exception use.

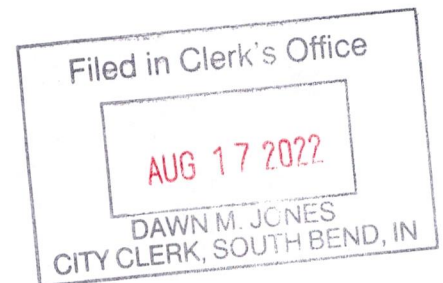
**Requested Action**

Special Exception – *complete and attach Criteria for Decision Making*

Use requested: Retail Sales (Boost Mobile Cellular Store)

Variance(s) - *List variances below, complete and attach Criteria for Decision Making*

Variance(s) requested:



**Required Documents**

**Completed Application (including Criteria for Decision Making and Contact Information)**

**Site Plan drawn to scale**

**Filing Fee**

**PAID**

AUG 08 2022

Per \_\_\_\_\_

## Criteria for Decision Making

### Special Exception - *if applicable*

**A Special Exception may only be granted upon making a written determination, based upon the evidence presented at a public hearing. Please address how the project meets the following criteria.**

**(1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare, because:**

The subject site has maintained a commercial use dating back to 1972. The prior use has primarily been a hair salon and sale of beauty supplies. This site is ideal for the cellular store due to its corner location at Western Ave and Pulaski St. and the site has ample on-site parking. The buyer presently operates a Boost Mobile Store 4 blocks to the west on SW corner of Western and Warren. Amar prefers to own the building rather than lease and is why he wants to purchase the building.

The subject building is approximately 1,500 sq ft and the maximum cap on this use is a building of 2,500 sq ft.

**(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein, because:**

The Boost Mobile Store will not create any additional traffic compared to the prior use as a hair salon. There is ample on-site parking with approximately 18 lined parking spots. Amar Singh will enhance the front entry with double glass doors and glass windows.

There are quite a few vacant buildings along Western Avenue and Boost Mobile will significantly maintain and enhance the surrounding property values.

**(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein, because:**

This Boost Mobile owner currently operates a store four (4) blocks immediately west on the corner of Western Ave and Warren St. Current businesses adjacent this building immediately east include the former Louvered Door Restaurant, Mannechor Club, Domingo Mercules Church and Ozark Jewelry and Pawn. Between the subject site and current Boost Store going west include Cashmeres Lounge, Johnnys Liquor, a Grocery Store and the St. Joe Club. Immediately across the street from subject site is the Goodwill Store and Goodwill Headquarters and Community Wide Federal Credit Union. The Boost Mobile Store fits in with adjacent uses as above.

**(4) The proposed use is compatible with the recommendations of the Comprehensive Plan, because:**

This section of Western Ave. contains a mix of small and large businesses (both service and retail) on both sides of the street with some residential mixed in. Due to the traffic along Western Ave., residential use for this building and site is highly prohibitive. The Boost Mobile Store will be well maintained and will provide a need for the surrounding community. In addition, a city bus stop is located at this site.

The history of this building and surrounding area has not changed over the years and we feel this use will enhance the site for many years and not become an eyesore like so many buildings adjacent to the east.



## Criteria for Decision Making

### Variance(s) - *if applicable*

State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. Please address how the project meets the following criteria:

(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community, because:

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner, because:

(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property, because:

(4) The variance granted is the minimum necessary, because:

(5) The variance does not correct a hardship caused by a former or current owner of the property, because:



**Contact Information**

**Property owner(s) of the petition site:**

Name: Andrew J. Hoffman

Address: 16925 Londonberry Lane  
South Bend, IN 46635

Name: John T. Hoffman - Deceased

Address: \_\_\_\_\_  
\_\_\_\_\_

Name: Michael J. Hoffman - Deceased

Address: \_\_\_\_\_  
\_\_\_\_\_

**Contact Person:**

Name: Andrew J. Hoffman

Address: 16925 Londonberry Lane  
South Bend, IN 46635

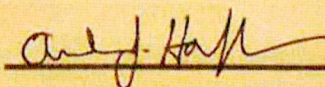
Phone Number: (773) 241-9077

E-mail: ahoffmanolcoach@gmail.com

**By signing this petition, the Petitioner/Property Owners of the above described Real Estate acknowledge they are responsible for understanding and complying with the South Bend Zoning Ordinance and any other ordinance governing the property. Failure of staff to notify the petitioner of a requirement does not imply approval or waiver from anything contained within the ordinance.**

**The undersigned authorizes the contact person listed above to represent this petition before the South Bend Plan Commission and Common Council and to answer any and all questions related to this petition.**

Property Owner (s) Signatures:

 \_\_\_\_\_  
\_\_\_\_\_



6:07

ON  HUNT

65°



Hunt Map  
Layers



Offline Maps



My Content

Sat  
3D



Tracker



6:06

ON **X** HUNT

Western Ave

West Western Ave

50 ft

734 ft elevation

HOFFMAN  
JOHN T &  
MICHAEL J &  
ANDREW J



JONES  
HARRY D &  
THERESA J

Hunt Map  
**Layers**

Sat  
2D

Offline Maps

My Content

Tools

Tracker







# BILL NO. 41-22



## City of South Bend PLAN COMMISSION

County-City Building  
227 W. Jefferson Blvd. 1400S  
South Bend, IN 46601  
(574) 235-7627  
[www.southbendin.gov/zoning](http://www.southbendin.gov/zoning)

August 17, 2022

Honorable Committee Chair Hamann  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601

RE: 1345 N Michigan St. PC#114-22

Dear Committee Chair Hamann:

Enclosed is an Ordinance for the proposed Zone Map Amendment at the above referenced location. Please include the attached Ordinance on the Council agenda for first reading at your August 22<sup>nd</sup> Council meeting and set it for public hearing at your September 26<sup>th</sup> Council meeting. The petition is tentatively scheduled for public hearing at the September 19, 2022, South Bend Plan Commission meeting. The recommendation of the South Bend Plan Commission will be forwarded to the Office of the City Clerk by noon on the day following the public hearing.

The petitioner provided the following to describe the proposed project:

The project will consist of the rezoning of Parcel 018-5127-4504. Currently zoned UF Urban Flex to C Commercial designation necessary to support a drive through coffee shop. The rezoning is consistent with the future land use map which designates this site as commercial.

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

Sincerely,

Rachel Boyles  
Zoning Specialist

CC: Bob Palmer

Filed in Clerk's Office

AUG 17 2022

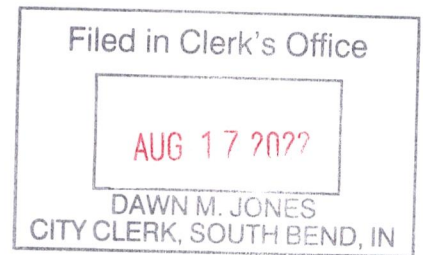
DAWN M. JONES  
CITY CLERK, SOUTH BEND, IN

**Tim Corcoran**  
Planning Director

**Angela Smith**  
Zoning Administrator

**Scott Ford**  
Commission President





**BILL NO.** 41-22  
**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED 1345 N. MICHIGAN ST., COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA**

---

**STATEMENT OF PURPOSE AND INTENT**

Petitioners desire to rezone the property from UF Urban Neighborhood Flex District to C Commercial District to build a drive-through facility.

---

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

**SECTION I.** Ordinance No. 10689-19, which ordinance is commonly known as the Zoning Ordinance of the City of South Bend, Indiana, be and the same hereby amended in order that the zoning classification of the following described real estate in the City of South Bend, St. Joseph County, State of Indiana:

LOTS 23, 24, 25 & 8.67 LOT 26 & EAST 26' LOT 28 & LOT 29 & 30 & ADJ VAC ALLEY LEEPERS 2<sup>ND</sup> ADDITION

be and the same is hereby established as C Commercial District

**SECTION II.** This ordinance is and shall be subject to commitments as provided by Chapter 21-12.07(f)(7) Commitments, if applicable.

**SECTION III.** This Ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor, and legal publication, and full execution of any conditions or Commitments placed upon the approval.

---

Sharon McBride, Council President  
South Bend Common Council

Attest:

\_\_\_\_\_  
Dawn M. Jones, 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 \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_ . m.

\_\_\_\_\_  
Dawn M. Jones, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_ o'clock \_\_\_\_ .m.

\_\_\_\_\_  
James Mueller, Mayor  
City of South Bend, Indiana



Petition for Rezoning or Combined Public Hearing

Property Information

Tax Key Number 018-5127-4504

Address: 1345 N. Michigan St. South Bend 46617

Owner: Memorial Health System, INC

Legal Description:

Tax Key Number: 018-5127-4504

Lot 23, 24, 25, & 8.67 Lot 26 & East 26' Lot 28 & Lot 29 & 30 & Adj  
Vac Alley Leepers 2nd Addition

Filed in Clerk's Office  
AUG 17 2022  
DAWN M. JONES  
CITY CLERK, SOUTH BEND, IN

Project Summary

The project will consist of the rezoning of Parcel 018-5127-4504 Currently zoned UF Urban Flex to C Commercial designation necessary to support a drive through coffee shop. The rezoning is consistent with the future land use map which designates this site as commercial.

Requested Action

Application includes (check all that apply)

Rezoning

Current District: UF Urban Flex

Additional Districts, if applicable

Proposed District C Commercial

Additional Districts, if applicable

The Plan Commission and Council will consider the following in the review of a rezoning petition:

- (1) The comprehensive Plan;
- (2) Current conditions and the character of the current structures and uses in each district;
- (3) The most desirable use for which the land in each district is adapted;
- (4) The conservation of property values throughout the jurisdiction; and
- (5) Responsible development and growth.

Subdivision – complete and attach subdivision application

Special Exception – complete and attach Criteria for Decision Making

Use requested: \_\_\_\_\_

Variance(s) - List variances below, complete and attach Criteria for Decision Making

Variance(s) requested: \_\_\_\_\_

Required Documents

- Completed Application (including Contact Information)
- Site Plan drawn to scale
- Filing Fee
- Additional documents as noted above

PAID

AUG 15 2022

Per \_\_\_\_\_

**Contact information**

**Property owner(s) of the petition site:**

Name: Memorial Health System, INC  
Address: 615 N. Michigan Ave., South Bend, IN 46601

Name:   
Address:

Name:   
Address:

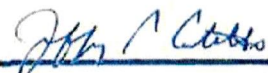
**Contact Person:**

Name: Steven Ruby  
Address: 315 W. Jefferson Blvd.  
South Bend, IN 46601  
Phone Number: (574) 538-2201  
E-mail: sruby@abonmarche.com

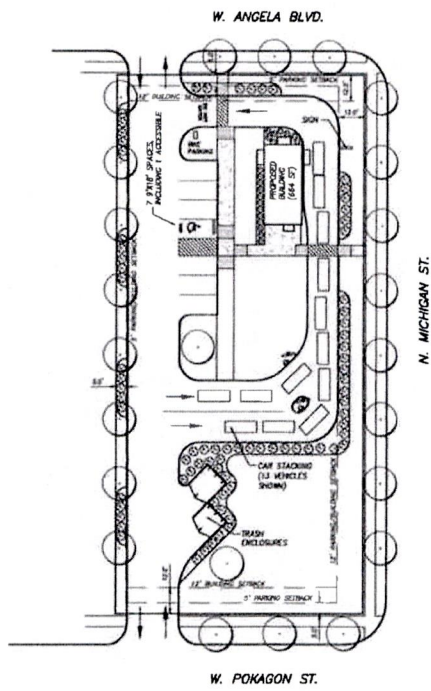
**By signing this petition, the Petitioner/Property Owners of the above described Real Estate acknowledge they are responsible for understanding and complying with the South Bend Zoning Ordinance and any other ordinance governing the property. Failure of staff to notify the petitioner of a requirement does not imply approval or waiver from anything contained within the ordinance.**

**The undersigned authorizes the contact person listed above to represent this petition before the South Bend Plan Commission and Common Council and to answer any and all questions related to this petition.**

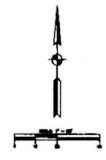
**Property Owner (s) Signatures:**

 \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





Note: Conceptual design is for preliminary layout purposes only. Plan layouts are subject to change based on survey and actual field conditions and comments from the review of the governing agencies.



**ABONMARCHÉ**  
 ARCHITECTS  
 1000 N. W. 10th St., Suite 100  
 Ft. Lauderdale, FL 33304  
 Phone: (954) 561-1111  
 Fax: (954) 561-1112  
 Website: www.abonmarche.com

**PROJECT**  
 SCOOTER'S COFFEE  
 FEASIBILITY STUDY  
 GRAPE ROAD-MISHAWAKA, IN

**CONCEPT PLAN**

DATE	
DESIGN BY	EA
APPROVED BY	EA
DATE	06/20/18
PROJECT NO.	22-0681
SCALE	AS SHOWN

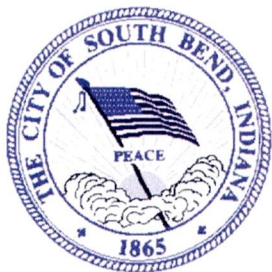
SCALE	
DATE	
DESIGN BY	EA
APPROVED BY	EA
DATE	06/20/18
PROJECT NO.	22-0681
SCALE	AS SHOWN

# BILL NO. 42-22

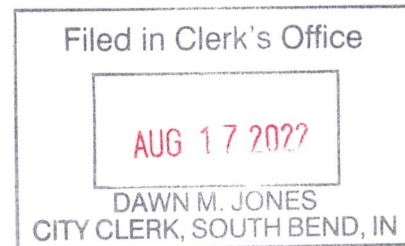
## City of South Bend Common Council

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>



August 17, 2022



Sharon L. McBride  
President

Sheila Niezgodski  
Vice-President

Canneth Lee  
Chairperson, Committee  
of the Whole

Canneth Lee  
First District

Henry Davis, Jr.  
Second District

Sharon L. McBride  
Third District

Troy Warner  
Fourth District

Eli Wax  
Fifth District

Sheila Niezgodski  
Sixth District

Karen L. White  
At Large

Rachel Tomas Morgan  
At Large

Lori K. Hamann  
At Large

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

**Re: AN ORDINANCE OF THE COMMON COUNCIL OF SOUTH BEND, INDIANA, REPLACING AND AMENDING CHAPTER 2, ARTICLE 1, SECTIONS 2-1 THROUGH AND INCLUDING 2-9, OF THE SOUTH BEND MUNICIPAL CODE TO UPDATE AND CLARIFY PROCEDURES FOR THE SOUTH BEND COMMON COUNCIL AND THE OFFICE OF THE CITY CLERK**

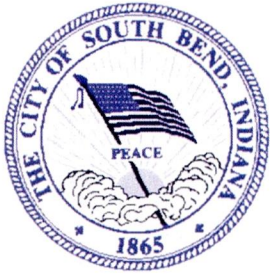
Dear Council Members:

Chapter 2, Article 1 of the South Bend Municipal Code sets forth several powers, duties, and obligations of the South Bend Common Council, its officers and members, and the Office of the City Clerk. The last comprehensive review and revision of most of these ordinances occurred in 1977. The last comprehensive review and revision of many of these ordinances before 1977 occurred in 1966. State and local governments have undergone many changes in the last forty-five (45) years. Council Members have informally voiced thoughts regarding possible changes in Chapter 2 for years. These proposed amendments seek to address some of those concerns.

One of the most significant changes has to do with the advent of how local governments serve the public through changes mandated by national emergencies such as COVID-19. The purpose and intent of these amendments to the Municipal Code are to update the Code to comply with actual practices and procedures as developed over the last forty-five years, clarify practices and procedures which need additional explanation, and to establish new best practices and procedures to better serve the public.

Changes in these amendments reflect an intent to promote inclusivity by use of gender-neutral references to Council Members. Section 2-2(m) clarifies that the Council President shall make the Council appointments to various boards, commissions, and committees. This authority expedites the appointment process so as not to delay necessary actions by the boards, commissions, and committees. Section 2-4(a) establishes the procedure for





# 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>

selecting a presiding officer of a Council meeting if neither the President nor Vice-President is present at the beginning of the meeting.

Section 2-6(d)(1) clarifies that the presiding officer's duty to preserve strict order and decorum applies to Council Members and the public. Section 2-6(e) clarifies that the election of the Chairperson of the Committee of the Whole shall take place in the same manner as the election of the President and Vice-President.

Section 2-7(d) clarifies the votes of each Council Member shall be identified by name in the minutes.

Section 2-8(b) eliminates the phrase "unless excused or necessarily prevented from being present" with respect to attendance at meetings. Neither the State statute nor the Municipal Code addresses what constitutes being "excused." Council members who are absent for any reason will be noted as such in the minutes. The amendment does not preclude an explanation for the absence to be noted at the meeting.

Section 2-9(v)(3) clarifies that any bill that does not conform to filing requirements, but not rejected by the Clerk's Office may be rejected by the Council President and/or the Chairperson of the Standing Committee having jurisdiction of the bill. Section 2-9(v)(6) establishes a procedure whereby resolutions or ordinances proposed by Council Members are included on the agenda for a Standing Committee or the full Council. Section 2-9(v) clarifies the procedure for Council consideration of a "special" or "commendation" resolution. Section 2-9(y) establishes a procedure for one or more Council Members to present a "special proclamation" at a time and place other than a Council meeting.

The bill is being filed as a complete replacement to avoid confusion. However, I have attached a red-lined version to this letter to make it easier to track the changes.

Please place this bill on the agenda for first reading at the Council's August 22, 2022 meeting and assignment to the Council's Rules Committee.

Thank you for your consideration.

Sincerely yours,

---

Sheila Niezgodski, Vice-President,  
South Bend Common Council

Filed in Clerk's Office

AUG 17 2022

DAWN M. JONES  
CITY CLERK, SOUTH BEND, IN

BILL NO. 42-22

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

**AN ORDINANCE OF THE COMMON COUNCIL OF SOUTH BEND, INDIANA,  
REPLACING AND AMENDING CHAPTER 2, ARTICLE 1, SECTIONS 2-1 THROUGH  
AND INCLUDING 2-9, OF THE SOUTH BEND MUNICIPAL CODE TO UPDATE AND  
CLARFY PROCEDURES FOR THE SOUTH BEND COMMON COUNCIL AND THE  
OFFICE OF THE CITY CLERK**

---

**STATEMENT OF PURPOSE AND INTENT**

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Chapter 2, Article 1 of the South Bend Municipal Code sets forth several powers, duties and obligations of the South Bend Common Council, its officers and members, and the Office of the City Clerk. The last comprehensive review and revision of most of these ordinances occurred in 1977. The last comprehensive review and revision of many of these ordinances before 1977 occurred in 1966. State and local governments have undergone many changes in the last forty-five (45) years. One of the most significant changes has to do with the advent of how local governments serve the public through changes mandated by national emergencies such as COVID-19. The purpose and intent of these amendments to the Municipal Code are to update the Code to comply with actual practices and procedures as developed over the last forty-five years, clarify practices and procedures which need additional explanation, and to establish new best practices and procedures to better serve the public.

Changes in these amendments reflect an intent to promote inclusivity by use of gender-neutral references to Council Members. Section 2-2(m) clarifies that the Council President shall make the Council appointments to various boards, commissions, and committees. This authority



expedites the appointment process so as not to delay necessary actions by the boards, commissions and committees. Section 2-4(a) establishes the procedure for selecting a presiding officer of a Council meeting if neither the President nor Vice-President is present at the beginning of the meeting.

Section 2-6(d)(1) clarifies that the presiding officer's duty to preserve strict order and decorum applies to Council Members and the public. Section 2-6(e) clarifies that the election of the Chairperson of the Committee of the Whole shall take place in the same manner as the election of the President and Vice-President.

Section 2-7(d) clarifies the votes of each Council Member shall be identified by name in the minutes.

Section 2-8(b) eliminates the phrase "unless excused or necessarily prevented from being present" with respect to attendance at meetings. Neither State statute, nor the Municipal Code, addresses what constitutes being "excused." Council members who are absent for any reason will be noted as such in the minutes. The amendment does not preclude an explanation for the absence to be noted at the meeting.

Section 2-9(v)(3) clarifies that any bill that does not conform to filing requirements, but not rejected by the Clerk's Office may be rejected by the Council President and/or the Chairperson of the Standing Committee having jurisdiction of the bill. Section 2-9(v)(6) establishes a procedure whereby resolutions or ordinances proposed by Council Members are included on the agenda for a Standing Committee or the full Council. Section 2-9(v) clarifies the procedure for Council consideration of a "special" or "commendation" resolution. Section 2-9(y) establishes a procedure for one or more Council Members to present a "special proclamation" at a time and place other than a Council meeting.

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

**SECTION I.** Chapter 2, Article 1, Sections 2-1 through and including 2-9 of the South Bend

Municipal Code shall be amended to read in their entirety as follows:

**Sec. 2-1. Common Council: Composition; Council Members; eligibility; term; compensation; vacancy.**

- (a) The legislative power and authority of the City shall be vested in the Common Council. Unless otherwise provided by law, all powers and duties of the City which are legislative in nature shall be exercised and performed by the Common Council.
- (b) The Council shall consist of nine (9) members termed Council Members; six (6) District Council Members elected from districts more particularly described in section 1-4 of this Code, and three (3) Council Members-at-Large elected at large from the entire City.
- (c) To be eligible to run for the office of Council Member all persons shall be a bona fide citizen of the United States and the State of Indiana and shall have attained the age of eighteen (18) years when elected. Additionally, all persons shall have been a resident of the City for at least one year immediately preceding election; and for all persons to be eligible to run for the office of District Council Member shall have resided in such district for the last six (6) months preceding the general election. Should any Council Member representing any district cease to be a resident of such district during his or her term of office, such office shall thereby become immediately vacant.
- (d) The election of Council Members shall be in accordance with all laws governing primary and general elections. The term of office of each Council Member shall commence on the first day of January after his or her election and shall continue for four (4) years thereafter. The Council Member's oath of office shall be administered by a duly qualified person to each Council Member, and such shall be signed and filed with the Office of the City Clerk on or before said date. The salary of each Council Member shall be a specified amount as set forth in the annual civil City budget.
- (e) In the case of a vacancy in the office of Council Member from death, resignation or other cause, such vacancy shall be filled pursuant to the procedure set forth in IC 3-13-8-1, 3-13-8-7 and/or 3-13-11-1 et seq. However, if the vacancy is of a District Council Member, the person selected to fill such vacancy must be a resident of the district from which the vacated Council Member was elected. All persons filling a vacated Council Member's office shall hold office only during the unexpired term and shall, during such incumbency, be entitled to the salary thereto attached.

**Sec. 2-2. Adoption of rules and regulations by the Common Council and powers thereto.**

- (a) The rules and regulations prescribed in this article are hereby adopted for the government of the Common Council of the City and its Members.



- (b) Any enumeration of powers in this Code shall not be held to limit the legislative powers of the Council.
- (c) The Council shall exercise any power or perform any function necessary and in the public interest in conducting the municipal and internal affairs, which are not inconsistent with the provisions of this Code or with the Constitution or Laws of the United States or the State of Indiana.
- (d) The Council shall have the power to adopt local laws deemed necessary for the effective operation and conduct of government with respect to municipal and internal affairs and shall provide for the enforcement of such laws and prescribe violation and punishment thereto.
- (e) The Council shall have the authority to request or compel attendance of Council Members, other officers of the City, and other witnesses; and may require the production of documents germane to matters being considered at meetings of the Council.
- (f) The Council may discipline any member of the public who causes or attempts to cause disorder or undue delay during a Council meeting. The Chairperson shall call the citizen to order by a verbal reprimand. If removal of the citizen is deemed necessary, a vote of two-thirds ( $\frac{2}{3}$ ) of the Council Members present shall authorize removal of said citizen from the meeting.
- (g) The Council shall have the power to discipline Council Members.
- (h) The Council shall have the power to pass all ordinances, orders, resolutions and motions for the government of the City; for the control of its property and finances; and for the appropriation of money.
- (i) The Council shall have the power to financially supervise and investigate all departments, officers and employees of the City and to examine any charge preferred against a department, officer, or employee of the City, and to investigate the affairs of any person with whom the City has entered or is about to enter into a contract.
- (j) The Council shall have the power to manage the finances of the City subject to the powers and duties vested in the executive departments.
- (k) Each Council Member shall file a written report with the City Clerk within fourteen (14) days after attending any meeting, conference or seminar where public funds are used to finance his or her attendance. The report shall include the following information: Name, date and place of meeting, conference or seminar; principal speakers and topics covered; brief descriptive narrative of the subject matter discussed; indication of whether written handouts are available; and name of Council Member in attendance.
- (l) The annual amount of money budgeted for travel and promotional expenses and instruction in the Common Council budget shall be divided equally among the nine (9) Council Members. Any monies not used pursuant to such division may be allocated to another Council Member upon his or her request, with informal Council approval. Council Members using such funds shall comply with subsection (k) of this section. The City Clerk shall maintain an ongoing accounting of all such travel, promotional, and instruction expenses by each Council Member of each calendar year.
- (m) All Council appointments to various boards, commissions, and committees shall be made by the President of the Common Council and take office the calendar year for which the

term(s) for such initial or renewal appointments(s) begin, except as provided by section 2-10 regarding citizen appointments to standing committees of the Common Council.

**Sec. 2-3. Organization meeting of the Common Council; officers; election; terms.**

- (a) The members of the Common Council shall hold their first regular meeting on the first Monday of January after their election at 7:30 p.m. in the Council Chambers. This meeting shall take place at 5:00 p.m. on the first Monday of each succeeding January thereafter.
- (b) At each first regular meeting, the Council shall choose from members a presiding officer or president, a presiding officer pro tempore or vice-president, the Chairperson of the Committee of the whole, and all other Council officers who shall serve until 7:00 p.m. of the first Monday in January of the next succeeding year. The Council shall also choose its Council Attorney at said meeting if the Council chooses to appoint a Council Attorney pursuant to Sec. 2-7.2(a) of this Article.

**Sec. 2-3.1. Mayor's Annual Address to Council.**

- (a) The Mayor shall annually address the Common Council at the first regularly scheduled Council meeting each February.
- (b) The Mayor shall provide a statement of finances and a general condition of the City in his or her annual address.
- (c) If the Council meeting location needs to be moved from the Council Chambers for the Mayor's annual address in any calendar year, an announcement shall be made by the Council President at the first or second regularly scheduled Common Council meeting in December of the prior year under the "Special Business" portion of that meeting announcing the exact location for that meeting.

**Sec. 2-4. Regular meetings of Common Council; calling of Council to order; Council informal meetings.**

- (a) The regular meetings of the Common Council shall be held at the Council Chambers on the second and fourth Monday evenings of each month at the hour of 7:00 p.m. If any regular meeting date falls on a holiday established by Federal, State or City law, or if a serious conflict for the Council arises as to a meeting date, the Council, at its election at the last preceding regular meeting, may meet on the regular meeting date or the next succeeding night. The regular meeting may be rescheduled for any date or time by majority vote of the Council. At the hour named, the President shall call the Common Council to order, and if the President is absent, the Vice-President shall act in the President's stead. If the latter is absent, any member of the Common Council may, upon motion, passed by a majority of Council Members present, be called to the Chair, and act as presiding officer only until the arrival of one entitled to preside.
- (b) The President of the Council shall schedule Council informal meetings as necessary, giving all Council Members reasonable notice in writing or by other appropriate means. Such informal meetings shall be open to both the press and public as are all regular and special meetings of the Council. The President shall call the Common Council to order at the prescribed time, or in the President's absence, the Vice-President shall act in the President's



stead. Although the parliamentary rules governing procedures for speech and debate may be set aside at the discretion of the President at such informal meetings, all other rules and regulations governing decorum and standards of conduct shall be in full force and effect whenever a Council Member performs any of the duties, obligations and services mandated by the Member's office.

**Sec. 2-5. Special meetings of Common Council; procedure for notice, service of notice and procedure for cancellation.**

- (a) Special meetings of the Common Council may be held on the call of the Mayor or of any five (5) members of the Common Council.
- (b) Such call shall be in writing, and specify therein the objects of the call, which is to say, the particular purposes for which it is called.
- (c) Such call shall be signed by the Mayor, or, when made by members of the Council, by them, and sealed with the seal of the City and countersigned by the Clerk, or the Clerk's designee.
- (d) Each member of the Council shall be notified of the holding of such special meeting by the Chief of Police or any member of the police force, reading such call to them, or leaving a certified copy thereof at the last and usual place of residence of any member that the officer is not able to find; or having the City Clerk's office calling each Council Member no later than seventy-two (72) hours prior to such meeting and reading the same to them and leaving a certified copy thereof at the last and usual place of residence.
- (e) Only such business shall be transacted at such special meeting as is specifically stated in the call for such special meeting.
- (f) The minute record shall show the issuance of the call, and the service of notice thereof, for which purpose the officer so serving such notice shall make return to the Clerk.
- (g) In the event that following the call of a special meeting a determination is made to cancel said special meeting the following procedure shall be followed:
  - (1) The Mayor or the members of the Common Council who signed the initial call for the special meeting shall file a "cancellation notice of special meeting" with the Office of the City Clerk. Said cancellation shall be duly signed by the individual(s) calling the meeting and shall be sealed with the seal of the City and countersigned by the Clerk, or the Clerk's designee.
  - (2) Each member of the Council shall be notified of the cancellation of the special meeting by the Chief of Police or any member of the police force, by reading such cancellation to them, or by leaving a certified copy thereof at the last and usual place of residence of any member that the officer is not able to find, or by having the City Clerk's office call each Council Member no later than twenty-four (24) hours prior to the date and time of the meeting to be cancelled and reading the same to them and leaving a certified copy thereof at the last and usual place of residence.
  - (3) Copies of the "call of special meeting" and "cancellation notice of special meeting" shall be sent to the news media by the Office of the City Clerk.

**Sec. 2-6. President of Common Council, powers and duties; Vice-President of Common Council, powers and duties.**

- (a) The presiding officer or President of the Common Council, after being duly elected pursuant to section 2-3 of this Code, and after taking the oath of office, shall take the chair and preside over all regular, special and informal meetings of the Council.
- (b) The President shall call the Council to order at the hour for the opening of the meetings and upon the appearance of a quorum.
- (c) The President or other presiding officer shall have the right to participate in the discussion of the Council after all other Council Members have had an initial opportunity to speak on an issue and shall have the right to vote on all matters, without taking leave of the chair.
- (d) The President shall:
  - (1) Preserve strict order and decorum among Council Members and/or members of the public;
  - (2) Decide all questions of order, and such decisions shall be final unless appeals are taken to the Council;
  - (3) Appoint all standing committees at the commencement of the term of the Council; provided that such standing committees shall serve only during the term of the appointing President;
  - (4) Appoint all special committees which may be ordered by the Council;
  - (5) Fill all vacancies which may occur in any of the standing or special committees;
  - (6) Sign all ordinances and resolutions adopted by the Council prior to their presentation to the Mayor, as well as all ordinances after enrollment, and the journal of the proceedings;
  - (7) Perform any function proper and necessary for the effective and efficient operation of the President's office as deemed in the public interest.
- (e) The Vice-President and the Chairperson of the Committee of the Whole of the Council shall be elected at the same time and for the same term and manner as the President of the Council.
- (f) The Vice-President or other presiding officer shall possess the powers and perform the duties of the President of the Council when the President is absent, or when a temporary vacancy occurs in the Office of the President.

**Sec. 2-7. Duties of City Clerk as Clerk of Council.**

- (a) The City Clerk shall be the Clerk of the Common Council.
- (b) The City Clerk shall be elected by the voters of the City at the time and in the same manner as other City officers are elected. The term of office shall commence on the first day of January following the Clerk's election and shall continue for four (4) years thereafter.



- (c) The Clerk, or a designated representative of the Clerk's Office, in addition to the powers and duties enumerated in section 2-14 of this Code, shall attend all regular and special meetings of the Council and shall keep an accurate journal of the proceedings of the Council and exercise and perform the powers and duties as provided and prescribed by law, this Code or ordinances. The City Clerk's Office shall prepare minutes without consultation with anyone not a part of said office.
- (d) The Clerk shall call the roll at the beginning of each session of the Council and on the vote of every ordinance and resolution and whenever requested by two (2) members on any other votes and record the ayes and nays by Council Member name in the minutes.
- (e) The Council Members shall be called in the following order: First, the District Council Members in the order of their districts; next the Council Members-at-Large in alphabetical order; last, the presiding officer. On all requested roll call votes when sitting as Committee of the Whole, on all third readings of bills, and on all resolutions, the Clerk shall call the roll rotating the call of each Council Member by one position.
- (f) The Clerk shall provide and maintain in the City Clerk's Office a supply of forms for all matters required to be filed with the City Clerk.
- (g) The Clerk shall have the power to administer oaths of office.
- (h) The Clerk shall make available to the press and any other interested person, upon request, all public information which is available concerning the subjects to be discussed at any regular, special or informal meetings of the Council, and shall also make available the time, date and place of such meetings.
- (i) Upon the request of any Council Member or the Council Attorney on behalf of any Council Member, the Office of the City Clerk shall provide other supportive clerical assistance and other related services to the Council, its standing committees, and such other committees which include Council representatives. Such services shall be provided to further effectuate the necessary obligations, responsibilities and duties required of the Council Members and to further the effective and efficient operation of the Council.
- (j) The City Clerk's Office shall maintain all minutes of the standing and special committees of the Common Council which are duly filed with said office by the Chairperson of the Committee. The minutes shall be maintained with the notices of such meetings in a separate and permanent folder for each committee. All folders shall be open for public inspection and available for copying at a reasonable cost to members of the public.

**Sec. 2-7.1. Sergeant-at-Arms.**

- (a) The Chief of Police shall designate, detail and assign a police officer to act as sergeant-at-arms for the Council who shall exercise duties as shall be designated by the Council.
- (b) The Sergeant-at-Arms shall exercise and perform other duties as may be prescribed by this Code and the laws of this State for the effective operation and conduct of the Council.

**Sec. 2-7.2. Council attorney.**

- (a) A Council attorney may be appointed by the President of the Common Council subject to the approval of the Council.

- (b) The Council attorney shall be responsible to see that all ordinances and resolutions requested by Council Members are drafted; shall review all proposed ordinances and resolutions as to form and legality; shall advise the Office of the City Clerk as to all matters regarding publication and codification of ordinances; and shall give legal advice as requested by the Common Council, its committees and its members.

(Ord. No. 6114-77, § 1; Ord. No. 7929-88, § 1)

**Sec. 2-8. Decorum and debate regulating Common Council.**

- (a) The presiding officer shall preserve order and decorum at all Council meetings. When necessary, the presiding officer may seek the assistance of the Sergeant-at-Arms in the enforcement of this provision.
- (b) Each member of the Common Council shall be present within the Council Chamber during the sessions of the Council and shall vote on each question put unless excused from voting by a majority of the members present. Any Council Member not present shall be noted in the minutes as absent.
- (c) A Council Member shall not vote or take any other discretionary action in the Member's official capacity, except in the exercise of the Member's own independent judgment, reached after due regard for the collective interests of the Member's constituency as a whole, and of the citizens and the community of the City of South Bend. The prohibition in this subsection extends to any agreement to take action in violation of this subsection and to any effort to induce other Council Members to violate it.
- (d) Whenever a Council Member has or is likely to have a substantial conflict of interest in connection with a matter pending before the Council in which the Member's action may be influenced by possible economic benefits or material personal gain, the Member shall disclose fully the nature of the potential conflict of interest, in which event the Member may continue to participate in the deliberations and vote on the matter if it is determined by a majority of the Council present that it is not a substantial conflict of interest.
- (e) Whenever a Council Member has or is likely to have a substantial conflict of interest in connection with any official matter other than one pending before the Council, the Member shall either:
  - (1) Disqualify himself or herself from further participation in the proceeding; or
  - (2) Conduct himself or herself in accordance with an advisory opinion from the Council Rules Committee.
- (f) Council Members shall not derive or attempt to derive any unjustified enrichment from their office. This subsection forbids:
  - (1) The solicitation or acceptance of any bribe, or any gift, or other material, economic or personal benefit, or of any promise of similar benefit, which the Member believes or reasonably should believe was intended to influence the Member's vote or other action to be taken in the Member's official capacity; or

- (2) The solicitation or acceptance of any gift or other economic or personal benefit conferred because of any vote or other action in the Member's official capacity already taken by the Member; or
  - (3) The acquisition or use for personal purposes of any property, services or funds of the City, unless authorized by law; or
  - (4) The use for personal gain of information pertaining to the City of South Bend, which is not a matter of public record, at a time when it is treated as confidential by the officials of the City.
- (g) When any Council Member is about to speak or deliver any matter to the Council, he or she shall respectfully address himself or herself to the presiding officer, and upon being recognized, confine himself or herself to the question in debate, and avoid personality, the presiding officer shall not recognize any Council Member as in order, unless he or she is in his or her proper seat.
  - (h) When two (2) or more Members seek recognition at once, the presiding officer shall name the Member entitled to speak.
  - (i) No member shall speak more than twice nor for more than five (5) minutes on the second occasion, upon any one (1) question or issue in debate during the same meeting. A member shall only be granted the right to speak a second time on the same question or issue after each member has had an opportunity to speak on said issue or question.
  - (j) While the presiding officer is putting the question or addressing the Council, no Member shall walk out of or across the Council Chamber or engage in private discourse.
  - (k) No Member shall impugn the motive of another.
  - (l) Any member may change their vote before the announcement of the result by the presiding officer.
  - (m) If any Member, in speaking or otherwise, shall transgress the rules of the Council, the presiding officer shall, or any Member may, call that Member to order, in which case the Member shall immediately cease the transgression unless permitted, on motion of another Member, to explain; and the Council shall, if appealed to, decide the case without debate by a majority vote of the Members present. If the decision is in favor of the Member called to order, that Member shall be at liberty to proceed, but not otherwise, and if the case requires it, that Member shall be liable to the censure of the Council.
  - (n) Should any Council Member, in the course of the Member's remarks, violate a second time any rule of the Council, and again be called to order that Member shall not speak further upon the pending question, except by permission of two-thirds ( $\frac{2}{3}$ ) of the members present.
  - (o) Each Council Member shall observe the highest standards of dignity, propriety, courtesy, respect and decorum when with other Council Members, officers and employees of the City, and all other persons, and when carrying out any of the responsibilities, duties and services allowed or mandated by the office of a Council Member.
  - (p) Unless excused in advance by the presiding officer, persons in the Council Chambers and in the Council Informal Meeting Room shall turn all cell phones, and any other electronic devices to silent mode when the Common Council is in session and when any Standing



Committee meeting is in progress. Council Members and citizen members of any Standing Committee may not send, view or listen to any electronic message communications while a Council or citizen member is part of the quorum for such meeting or while such meeting is in progress. Any electronic device which is used through City-controlled access and which is needed during the Common Council or any Standing Committee is permitted for the purpose of accessing city information, city presentations, and to record minutes and notes.

- (q) As used in this Article, "electronic device" means a wireless and/or portable electronic handheld piece of equipment that includes, but is not limited to, existing and emerging mobile communication systems and smart technologies (cell phones, smart phones walkie-talkies, pagers, etc.) portable internet devices (mobile managers, mobile messengers, BlackBerry T handset, etc.) Personal Digital Assistants (PDAs), (Palm organizers, pocket PCs, etc.) and any other convergent communication technologies that do any number of the previously mentioned functions. "Electronic device" also includes any current or emerging wireless handheld technologies or portable information technology systems that can be used for word processing, wireless internet access and information transmitting/receiving, etc. Tape recorders, cameras, and hearing aids<sup>3</sup> shall be excluded from the definition of "electronic devices" as used in this Article. Emergency communication devices used by sworn police officers and medical first responders who are in attendance of a Common Council or Standing Committee meeting shall be excluded from the provisions of this Article.

<sup>3</sup> Hearing aids are defined by the National Institute of Deafness and Other Communication Disorders (NIDCD) as a "small electronic device that you wear in or behind an ear which is designed to make some sounds louder so that a person with hearing loss can listen, communicate and participate more fully in daily activities."

**Sec. 2-8.1. Parliamentarian of the Common Council.**

- (a) The Council Attorney or in the Council Attorney's absence, the City attorney, or designate of the City Legal Department, shall act as Parliamentarian of the Common Council at all general, special and committee meetings of the Council.
- (b) The Parliamentarian shall decide all procedural questions only upon request of any Council Member during a meeting. Such decisions shall be advisory in nature.
- (c) The Parliamentarian shall have in the Parliamentarian's possession the appropriate rules and regulations governing the Council at all general, special and committee meetings.
- (d) Any advisory decision made by the Parliamentarian may be accepted or rejected by the Council, and once acted upon by the presiding officer, the presiding officer's decision may then be subject to further appropriate action by the Council.

**Sec. 2-9. Parliamentary procedure for the Common Council.**

- (a) The most recent edition of Robert's Rules of Order shall be the authority on all questions of parliamentary law and procedure not specifically covered by this article. For the purposes of this article, parliamentary law shall mean the enacted rules and recognized usages which govern the procedure of legislative assemblies.
- (b) A majority of all the Council Members shall constitute a quorum for the transaction of business of the Council. It shall require a majority vote of all the Council Members to pass an ordinance or resolution. Whenever by law it is required that any ordinance or resolution shall be passed by a two-thirds ( $\frac{2}{3}$ ) vote, such requirement shall be construed to mean a two-thirds ( $\frac{2}{3}$ ) vote of all Council Members.
- (c) No one not a member of Council shall be permitted to address the same, except upon invitation by the presiding officer or by a majority vote of the Council.
- (d) No ordinance or resolution shall be received or considered by the Council unless it is presented by a member thereof, a duly authorized member of the City Administration, or as otherwise provided by law.
- (e) Every motion made by any member of the Council and entertained by the presiding officer shall be reduced to writing on the demand of any member.
- (f) When a motion has been made, the presiding officer shall state it, or if in writing, shall cause it to be read aloud by the Clerk before being debated; and it shall then be in the possession of the Council, but may be withdrawn at any time before a decision or amendment.
- (g) Abstention: When in order to enact an ordinance, resolution or motion, State law requires a majority of the Council to vote "aye," the following procedures shall be applicable in calculating said majority:
  - (1) Only Council Members who have disqualified themselves on a matter due to a substantial conflict of interest or have disclosed fully the nature of their conflict of interest pursuant to the provisions of this article are entitled to an abstention.
  - (2) Abstentions shall not be counted as either an "aye" or "nay" vote.

- (h) The presiding officer shall decide whether any question is carried by affirmative or a negative vote; but if the presiding officer is in doubt, and the "ayes" and "nays" or a division be called for, the presiding officer shall call for a roll call vote.
- (i) When a question is under debate, no motion shall be received, but to adjourn, for the previous question (which motion shall be decided without debate), to lay on the table, to postpone to a day certain, to refer, to amend, or to postpone indefinitely, which several motions shall have preference in the order in which they are here arranged.
- (j) The motion to adjourn and the motion to fix a time to which the Council shall adjourn shall always be in order, the latter motion taking precedence over the former.
- (k) The motion to lay an amendment on the table shall not affect the subject which it is proposed to amend.
- (l) A "call for question" motion shall be proper after each member present has had the opportunity to address the specific issue under debate. Said motion shall not require a second and upon such a motion all debate shall cease. The presiding officer shall then repeat the "call for question" motion pending before the Council and ask for a voice vote on said issue.
- (m) The motion to postpone to a date certain can be amended by altering the time.
- (n) The motion to commit may be amended by altering the committee or by giving instructions.
- (o) A motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one (1) amendment may be offered, but neither may be withdrawn before amendment or decision is had thereon.
- (p) No motion or proposition postponed indefinitely shall be taken up again at the same or next succeeding meeting.
- (q) A question shall be divided on the demand of any member if it includes two (2) or more distinct propositions.
- (r) A motion to strike out and insert shall be indivisible, but a motion to strike out being lost shall neither preclude amendment, nor motion to strike out and insert, and no motion or proposition on a subject different from that under consideration shall be submitted under color of amendment.
- (s) Motion to reconsider: When a motion has been made and carried or lost, it shall be in order for any member of the majority at the same or the next regular meeting, to move for the reconsideration thereof. Such a motion upon being made may be seconded by any Council Member and may be made at any time. It shall be debatable and requires a majority vote to prevail. No such motion shall be introduced at a subsequent meeting unless the member intending to make the same shall have given written notice of such intention at the meeting at which the vote which he or she desires to have reconsidered was taken.
- (t) When a resolution is offered or a report or other matter presented, the presiding officer may take the reception thereof for granted, unless objection be made, when a formal motion shall be required.



- (u) Appeals, questions of order, objections to the consideration of a question, the reading of papers, leave to withdraw a motion and suspension of the rules are questions which shall take precedence over and be decided before the question which gave rise to them; which several questions cannot be amended, and all questions of order which may arise pending a question which is not debatable must be decided without debate.
- (v) Form of ordinances and resolutions: All legislation of the City shall be by ordinance or by resolution. The word "resolution" as used in this chapter shall be the official action of the Council, and shall be limited to matters authorized by local, State or Federal law, and to matters pertaining to the internal affairs or operations of City Government. All resolutions shall be assigned a bill number by the City Clerk's office upon being properly filed with the City Clerk's office. Each resolution must have a short title identifying the subject matter of the resolution, followed by "whereas" clauses which set forth the background information of the resolution. Following the end of the "whereas" portion, the next paragraph shall begin with the words "Now, therefore, be it resolved by the Common Council of the City of South Bend, Indiana, as follows:" and a section by section format shall follow thereafter. If the resolution is adopted by the Common Council and approved by the Mayor, the City Clerk's Office shall assign it a resolution number.

All matters of a general and permanent nature which address issues addressed in the South Bend Municipal Code, which establish fees, or which regulate conduct, or which prescribe penalties, shall be submitted in the form of an ordinance. Each ordinance shall be identified with a bill number assigned by the City Clerk's office upon proper filing with that Office. Each ordinance must have a short title, and must specifically refer to the chapter, article and section of the Code, when it proposes an amendment to the South Bend Municipal Code. Ordinances shall be numbered in the order they are passed but shall be listed on the Council's agenda as they are introduced for filing, except when the Council may direct otherwise.

The following format shall be used when introducing a proposed ordinance for Council consideration:

- (1) Each bill filed for ordinance consideration shall begin after a preliminary "Statement of Purpose and Intent" which shall set forth the overall purpose(s) of the bill, as well as relevant background information addressing governing local, State or Federal law or policies. Following the end of the statement of purpose and intent, the next paragraph shall begin with the words: "Now therefore, be it ordained by the Common Council of the City of South Bend, Indiana, as follows:" with a section by section format following thereafter.
- (2) All bills filed for ordinance consideration which propose to amend the South Bend Municipal Code must include a detailed summary of the proposed changes in the statement of purpose and intent. All such bills must use one (1) of the following formats:
  - a. Following the statement of purpose and intent section, the introductory sentence to the first section must include the words "Chapter \_\_\_\_\_, Article \_\_\_\_\_, Section \_\_\_\_\_, of the South Bend Municipal Code shall be amended to read in its entirety as follows"; or

- b. Following the statement of purpose and intent section, the introductory sentence to each section of the South Bend Municipal Code which proposes new language must set forth the proposed new language in bold type or may underline such proposed new language and must show the deletion of current words with a dash through such language, so long as that utilizing this format does not cause undue confusion.
- (3) Any bill submitted to be considered for ordinance consideration which does not conform to the applicable requirements of this section may be rejected by the City Clerk's Office when presented for filing. Any non-conforming bill not rejected by the City Clerk's office may be rejected by the Council President and/or the Chairperson of the standing committee having jurisdiction over the substance of the bill.
- (4) All proposed resolutions and ordinances must be accompanied by a separate cover letter from the party initiating such resolution or ordinance. Each such letter must clearly identify the salient points of the proposed resolution or ordinance and must identify the person who will be giving the presentation at the public hearing, if different from the person signing the letter. Any proposed resolution or ordinance which is not accompanied by such a letter may be rejected by the City Clerk's Office when presented for filing.
- (5) Resolutions or ordinances proposed by the City Administration should when at all possible and in the interest of furthering better communications between the administrative and legislative branches, have the proposed resolution or ordinance signed by the Chairperson of the Standing Committee which has jurisdiction over the subject matter addressed in the proposed legislation.
- (6) Resolutions or ordinances proposed by one or more Council members should, when at all possible and in the interest of furthering better communications between Council members and expediting consideration of bills, have the proposed resolution or ordinance reviewed and signed by the Chairperson of the Standing Committee which has jurisdiction over the subject matter addressed in the proposed legislation. Any such proposed resolution or ordinance not signed by the Chairperson of the Standing Committee which has jurisdiction over the subject matter addressed in the proposed legislation will not be considered by a Standing Committee or the Council unless three (3) or more Council members are cosponsors of the bill.
- (7) The party initiating any legislation which is amended during the Common Council's public hearing, must file a complete original of such amended legislation with the Office of the City Clerk, by the next business day.
- (8) If the proposed ordinance is passed by the Common Council and approved by the Mayor, the City Clerk's Office shall assign it an ordinance number.
- (9) Any substitute proposed resolution or substitute proposed ordinance filed with the City Clerk for Council consideration which is filed to replace an original filing with that office, must be accompanied with a cover letter which summarizes the changes being recommended in the substitute version.
- (10) The signatory section for a bill or proposed resolution shall read as follows:

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 \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ .m.

City Clerk

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

Mayor of the City of South Bend, Indiana

- (w) Every bill filed for ordinance consideration shall be read a total of three (3) times by title by the Clerk. If a bill's title was amended in the Committee of the Whole, the amended title shall be read by the Clerk at third reading. No bill shall be read the third time at the same meeting it is introduced unless by unanimous roll call vote of all Council Members present. Additionally, there must be at least two-thirds ( $\frac{2}{3}$ ) of the entire Council present to carry such a motion.

The City Clerk shall read by title only all bills filed for first reading. At that time, the Council may send the bill to a proper Council Committee for review and recommendation, if appropriate, and set a date for second reading, public hearing and third reading. At the time of public hearing before the Committee of the Whole of the Council, on said bill, the Clerk shall read the bill by number and title only. When amendments to bills are approved by the Council which amend the title of said bill, the Clerk shall read the amended title on second and/or third reading(s). The bill shall receive a third reading by title only, after which a formal vote of the Common Council shall be taken on the bill.

- (x) No bill filed for ordinance consideration or proposed resolution shall appear on the agenda of a regular meeting of the Common Council unless said bill or proposed resolution has been properly filed in the Office of the City Clerk on or before the Wednesday at 12:00 noon immediately prior to said regular meeting. All such filings shall be on eight and one-half by eleven inch ( $8\frac{1}{2}'' \times 11''$ ) white paper and/or filed electronically with the Office of the City Clerk, along with a proper cover letter as further addressed in subsection (v)(4) of this section. In matters dealing with proposed rezonings, tax abatements, vacations of public property, variances and special exceptions, or any other matter where a petition or other document is required at time of filing, all required attachments must be filed at time of filing the bill or proposed resolution. Any exhibits referenced in a bill or proposed resolution must accompany the document at time of filing. In the event that a filing is not complete, the Office of the City Clerk may reject a proposed filing as further addressed in subsection (v)(3) of this section. Special or Commendation resolutions may be filed on eight and one-half by fourteen inch ( $8\frac{1}{2}'' \times 14''$ ) white paper and/or filed electronically with the Office of the City Clerk. This subsection is not applicable to special meetings. The City Clerk's office may reject all ordinances and resolutions not meeting the filing deadline, or in the



alternative, may schedule such late filing(s) for the next subsequent Council meeting agenda. The Clerk's Office shall immediately notify the Council President, the Chairperson of the Standing Committee which has jurisdiction over the proposed bill and the sponsor(s) of the proposed bill if the bill has been rejected or scheduled for the next subsequent Council meeting agenda.

- (y) The City Clerk's office may reject all such resolutions not meeting the filing deadline, or in the alternative, may schedule such late filing(s) for the next subsequent Council meeting agenda. The Clerk's Office shall immediately notify the Council President and the sponsor(s) of the proposed bill if the bill has been rejected or scheduled for the next subsequent Council meeting agenda. The "Special" or "Commendation" resolution may, in the President's sole discretion, be placed on the agenda of the upcoming Council meeting. Such resolutions shall not be assigned to a Standing Committee and shall be subject to a voice vote, not a roll call vote.
- (z) "Special Proclamations" may be presented by one or more Council members on their own behalf to individuals, groups or organizations at any time and place other than a Council meeting.
- (aa) When a bill is introduced, it shall be read by title by the City Clerk after which the presiding officer shall entertain a motion for disposition.
- (bb) The third reading of the bill shall be by title, after which the presiding officer shall state that "This is the third reading of the bill, the question is shall the bill pass?"
- (cc) Any bill may be stricken from the files at any time before passage by a two-thirds ( $\frac{2}{3}$ ) vote of all members elected.
- (dd) Any bill failing to receive a sufficient number of votes on final passage will be considered as lost and stricken from the files, provided the vote is not reconsidered, as authorized by subsection(s) of this section.
- (ee) All votes upon the passage of bills and resolutions, and upon motions to suspend the rules or motions to reconsider shall be by roll call.
- (ff) When a resolution is introduced, it shall be read by title only, after which, if there is no objection, it shall stand ready for adoption following its public hearing. If there is objection, it shall be in order for any member to make a proper motion for disposition of the resolution.
- (gg) No proposition to rescind or change any standing rule or order of the Common Council shall be passed at the same meeting it is submitted; nor shall any proposition having the force and effect of a bylaw or a standing rule or other relating to the government of the Council or the duties of any of the City officers be passed except in the form of an ordinance and according to the forms prescribed for the passage of ordinances.
- (hh) Effective date: The effective date of all bills shall be prescribed therein; however, no bill prescribing a penalty or forfeiture for a violation shall become effective before publication in the manner prescribed by IC 36-4-6-14(b) or (c).
- (ii) Severability: Unless a bill shall expressly provide to the contrary, if any portion of a bill or the application thereof to any person or circumstances shall be found to be invalid by a court of competent jurisdiction such invalidity shall not affect the remaining portion or

application, provided such remaining portions or applications are not determined by the court to be inoperative and to this end bills are declared to be severable.

- (jj) The presiding officer may, upon a member of the public being recognized to address the Council, limit him or her to no more than five (5) minutes, unless a majority of the Council Members present vote to extend such period.
- (kk) Each member of the public who wishes to be recognized by the presiding officer in order to speak during a public hearing, must give his or her name and address for the record.
- (ll) No member of the public may speak twice on the same issue unless a majority of the Council Members present vote to allow such a second presentation. A three-minute limit shall apply to such a second presentation.

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

PASSED AND ADOPTED by the Common Council of the City of South Bend, Indiana this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Sharon McBride, President Common Council  
of the City of South Bend

ATTEST:

\_\_\_\_\_  
Dawn M. Jones, Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City for his approval on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_\_ m.

\_\_\_\_\_  
Dawn M. Jones, Clerk

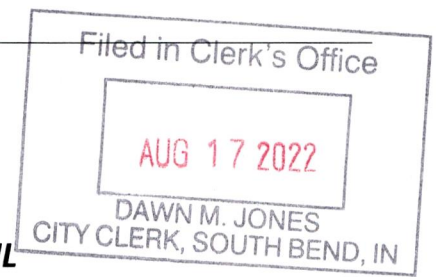
Having examined the foregoing Ordinance, I do now, as the Mayor of the City of South Bend, approve said Ordinance and return the same to the Clerk of the City of South Bend this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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James Mueller, Mayor



**CHAPTER 2 ADMINISTRATION**  
**ARTICLE 1. THE COMMON COUNCIL**



**Sec. 2-1. Common Council: Composition; Council Members; eligibility; term; compensation; vacancy.**

- (a) The legislative power and authority of the City shall be vested in the Common Council. Unless otherwise provided by law, all powers and duties of the City which are legislative in nature shall be exercised and performed by the Common Council.
- (b) The Council shall consist of nine (9) members termed Council Members; six (6) District Council Members elected from districts more particularly described in section 1-4 of this Code, and three (3) Council Members-at-Large elected at large from the entire City.
- (c) To be eligible to run for the office of Council Member all persons shall be a bona fide citizen of the United States and the State of Indiana, and shall have attained the age of eighteen (18) years when elected. Additionally, all persons shall have been a resident of the City for at least one year immediately preceding ~~his or her~~ election; and for all persons to be eligible to run for the office of District Council Member shall have resided in such district for the last six (6) months preceding the general election. Should any Council Member representing any district cease to be a resident of such district during his or her term of office, such office shall thereby become immediately vacant.
- (d) ~~The Election~~ election of Council Members shall be in accordance with all laws governing primary and general elections. The term of office of each Council Member shall commence on the first day of January after his or her election and shall continue for four (4) years thereafter. The Council Member's oath of office shall be administered by a duly qualified person to each Council ~~member~~ Member and such shall be signed and filed with the Office of the City Clerk on or before said date. The salary of each Council Member shall be a specified amount as set forth in the annual civil City budget.
- (e) In the case of a vacancy in the office of Council Member from death, resignation or other cause, such vacancy shall be filled pursuant to the procedure set forth in IC 3-13-8-1, ~~3-13-8-7~~ and/or 3-13-11-1 et seq. However, if the vacancy is of a District Council Member, the person selected to fill such vacancy must be a resident of the district from which the vacated Council Member was elected. All persons filling a vacated Council Member's office shall hold office only during the unexpired term and shall, during such incumbency, be entitled to the salary thereto attached.<sup>1</sup>

~~(Ord. No. 6114-77, § 1; Ord. No. 6237-77, § 1; Ord. No. 7862-88, § 1; Ord. No. 7929-88, § 1)~~

**Sec. 2-2. Adoption of rules and regulations by the Common Council and powers thereto.<sup>2</sup>**

- (a) The rules and regulations prescribed in this article are hereby adopted for the government of the Common Council of the City and ~~of its members~~ Members.
- (b) Any enumeration of powers in this Code shall not be held to limit the legislative powers of the Council.

<sup>1</sup>State law reference(s) — ~~Vacancies in elective offices, IC 3-2-9-1—3-2-9-10.~~

<sup>2</sup>State law reference(s) — ~~As to organization and procedure of Council, see IC 36-4-6-1 et seq.~~

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- (c) The Council shall exercise any power or perform any function necessary and in the public interest in conducting the municipal and internal affairs, which are not inconsistent with the provisions of this Code or with the Constitution or Laws of the United States or the State of Indiana.
  - (d) The Council shall have the power to adopt local laws deemed necessary for the effective operation and conduct of government with respect to municipal and internal affairs, and shall provide for the enforcement of such laws and prescribe violation and punishment thereto.
  - (e) The Council shall have the authority to request or compel attendance of Council Members, other officers of the City, and other witnesses; and may require the production of documents germane to matters being considered at meetings of the Council.
  - (f) The Council may discipline any member of the public who causes or attempts to cause disorder or undue delay during a Council meeting. The Chairperson shall call the citizen to order by a verbal reprimand. If removal of the citizen is deemed necessary, a vote of two-thirds (⅔) of the Council Members present shall authorize removal of said citizen from the meeting.
  - (g) The Council shall have the power to discipline Council Members.
  - (h) The Council shall have the power to pass all ordinances, orders, resolutions and motions for the government of the City; for the control of its property and finances; and for the appropriation of money.
  - (i) The Council shall have the power to financially supervise and investigate all departments, officers and employees of the City and to examine any charge preferred against a department, officer, or employee of the City, and to investigate the affairs of any person with whom the City has entered or is about to enter into a contract.
  - (j) The Council shall have the power to manage the finances of the City subject to the powers and duties vested in the executive departments.
  - (k) Each Council Member shall file a written report with the City Clerk within fourteen (14) days after attending any meeting, conference or seminar where public funds are used to finance his or her attendance. The report shall include the following information: Name, date and place of meeting, conference or seminar; principal speakers and topics covered; brief descriptive narrative of the subject matter discussed; indication of whether written handouts are available; and name of Council Member in attendance.
  - (l) The annual amount of money budgeted for travel and promotional expenses and instruction in the Common Council budget shall be divided equally among the nine (9) Council Members. Any monies not used pursuant to such division may be allocated to another Council Member upon his or her request, with informal Council approval. Council Members using such funds shall comply with subsection (k) of this section. The City Clerk shall maintain an ongoing accounting of all such travel, promotional, and instruction expenses by each Council Member of each calendar year.
  - (m) All Council appointments to various boards, commissions, and committees shall be made by the [President of the Common Council](#) ~~which and~~ takes office the calendar year for which the term(s) for such initial or renewal appointments(s) begin, except as provided by section 2-10 regarding citizen appointments to standing committees of the Common Council.

~~{Code 1962, § 2-3; Ord. No. 6114-77, § 1; Ord. No. 6939-81, § 1; Ord. No. 7025-82, § 2; Ord. No. 7128-82, § 1; Ord. No. 7297-84, § 1; Ord. No. 7862-88, § 2; Ord. No. 7929-88, § 1}~~



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## Sec. 2-3. Organization meeting of the Common Council; officers; election; terms.<sup>3</sup>

- (a) The members of the Common Council shall hold their first regular meeting on the first Monday of January after their election at 7:30 p.m. in the Council Chambers. This meeting shall take place at 5:00 p.m. on the first Monday of each succeeding January thereafter.
- (b) At ~~this each~~ first regular meeting, the Council shall choose from members a presiding officer or president, a presiding officer pro tempore or vice-president, the Chairperson of the Committee of the whole, and all other Council officers who shall serve until 7:00 p.m. of the first Monday in January of the next succeeding year. The Council shall also choose its Council Attorney at said meeting; if the Council chooses to appoint a Council Attorney pursuant to Sec. 2-7.2(a) of this Article.

~~(Code 1962, § 2-4; Ord. No. 3630, § 1; Ord. No. 5484-73, § 1; Ord. No. 6114-77, § 1; Ord. No. 7025-82, § 1; Ord. No. 7247-83, § 1; Ord. No. 8462-94, § 1)~~

### Sec. 2-3.1. Mayor's Annual Address to Council.

- (a) The Mayor shall annually address the Common Council at the first regularly scheduled Council meeting each February.
- (b) The Mayor shall provide a statement of finances and a general condition of the City in his or her annual address.
- (c) If the Council meeting location needs to be moved from the Council Chambers for the Mayor's annual address in any calendar year, an announcement shall be made by the Council President at the first or second regularly scheduled Common Council meeting in December of the prior year under the "Special Business" portion of that meeting announcing the exact location for that meeting.

~~(Ord. No. 7862-88, § 1; Ord. No. 9630-05, § 1, 10-24-05)~~

### Sec. 2-4. Regular meetings of Common Council; calling of Council to order; Council informal meetings.

- (a) The regular meetings of the Common Council shall be held at the Council Chambers on the second and fourth Monday evenings of each month at the hour of 7:00 p.m. If any regular meeting date falls on a holiday established by Federal, State or City law, or if a serious conflict for the Council arises as to a meeting date, the Council, at its election at the last preceding regular meeting, may meet on the regular meeting date or the next succeeding night. The regular meeting may be rescheduled for any date or time by majority vote of the Council. At the hour named, the President shall call the Common Council to order, and if he-the President is absent, the Vice-President shall act in his-the President's stead. If the latter is absent, any member of the Common Council may, upon motion, passed by a majority of Council Members present, be called to the Chair, and act as presiding officer only until the arrival of one entitled to preside.
- (b) The President of the Council shall schedule Council informal meetings as necessary, giving all Council Members reasonable notice in writing or by other appropriate means. Such informal meetings shall be open to both the press and public as are all regular and special meetings of the Council. The President shall call the common-Common Council to order at the prescribed time, or in his-or-her-the President's absence, the Vice-

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<sup>3</sup>State law reference(s)—~~First, regular meeting following election be held at 7:30 p.m. on the first Monday in January, IC 36-4-6-7(a).~~



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President shall act in ~~his or her~~the President's stead. Although the parliamentary rules governing procedures for speech and debate may be set aside at the discretion of the President at such informal meetings, all other rules and regulations governing decorum and standards of conduct shall be in full force and effect whenever a Council ~~member~~Member performs any of the duties, obligations and services mandated by ~~his or her~~the Member's office.

(Code 1962, § 2-5; Ord. No. 3630, § 1; Ord. No. 3695; Ord. No. 4055, § 1; Ord. No. 4154, § 1; Ord. No. 4517, § 1; Ord. No. 5484-73, § 1; Ord. No. 5555-73, § 1; Ord. No. 6114-77, § 1; Ord. No. 7025-82, § 2; Ord. No. 7929-88, § 1)

## **Sec. 2-5. Special meetings of Common Council; procedure for notice, service of notice and procedure for cancellation.**

- (a) Special meetings of the Common Council may be held on the call of the Mayor or of any five (5) members of the Common Council.
- (b) Such call shall be in writing, and specify therein the objects of the call, that is to say, the particular purposes for which it is called.
- (c) Such call shall be signed by the Mayor, or, when made by members of the Council, by them, and sealed with the seal of the City and countersigned by the Clerk, or the Clerk's designee.
- (d) Each member of the Council shall be notified of the holding of such special meeting by the Chief of Police or any ~~of the~~members of the police force, reading such call to them, or leaving a certified copy thereof at the last and usual place of residence of any member that the officer is not able to find; or having the City Clerk's office calling each Council Member no later than seventy-two (72) hours prior to such meeting and reading the same to them and leaving a certified copy thereof at the last and usual place of residence.
- (e) Only such business shall be transacted at such special meeting as is specifically stated in the call for such special meeting.
- (f) The minute record shall show the issuance of the call, and the service of notice thereof, for which purpose the officer so serving such notice shall make return to the Clerk.
- (g) In the event that following the call of a special meeting a determination is made to cancel said special meeting the following procedure shall be followed:
  - (1) The Mayor or the members of the Common Council who signed the initial call for the special meeting shall file a "cancellation notice of special meeting" with the Office of the City Clerk. Said cancellation shall be duly signed by the individual(s) calling the meeting and shall be sealed with the seal of the City and countersigned by the Clerk, or the Clerk's designee.
  - (2) Each member of the Council shall be notified of the cancellation of the special meeting by the Chief of Police or any ~~of the~~members of the police force, by reading such cancellation to them, or by leaving a certified copy thereof at the last and usual place of residence of any member that the officer is not able to find, or by having the City Clerk's office call each Council Member no later than twenty-four (24) hours prior to the date and time of the meeting to be cancelled and reading the same to them and leaving a certified copy thereof at the last and usual place of residence.
  - (3) Copies of the "call of special meeting" and "cancellation notice of special meeting" shall be sent to the news media by the Office of the City Clerk.

(Code 1962, § 2-6; Ord. No. 3630; Ord. No. 6114-77, § 1; Ord. No. 7885-88, § 1; Ord. No. 7929-88, § 1)

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## Sec. 2-6. President of Common Council, powers and duties; Vice-President of Common Council, powers and duties.

- (a) The presiding officer or President of the Common Council, after being duly elected pursuant to section 2-3 of this Code, and after taking the oath of office, shall take the chair and preside over all regular, special and informal meetings of the Council.
- (b) The President shall call the Council to order at the hour for the opening of the meetings and upon the appearance of a quorum.
- (c) The President ~~and or other~~ presiding officer shall have the right to participate in the discussion of the Council after all other Council Members have had an initial opportunity to speak on an issue and shall have the right to vote on all matters, without taking leave of the chair.
- (d) The President shall:<sup>4</sup>
  - (1) Preserve strict order and decorum ~~among Council Members and/or members of the public~~;
  - (2) Decide all questions of order, and ~~his-such~~ decisions shall be final unless appeals are taken to the Council;
  - (3) Appoint all standing committees at the commencement of the term of the Council; provided that such standing committees shall serve only during the term of the appointing President;
  - (4) Appoint all special committees which may be ordered by the Council;
  - (5) Fill all vacancies which may occur in any of the standing or special committees;
  - (6) Sign all ordinances and resolutions adopted by the Council prior to their presentation to the Mayor,<sup>5</sup> as well as all ordinances after enrollment, and the journal of the proceedings;
  - (7) Perform any function proper and necessary for the effective and efficient operation of ~~his-the~~ President's office as deemed in the public interest.
- (e) The Vice-President ~~and the Chairperson of the Committee of the Whole~~ of the Council shall be elected at the same time and for the same term and manner as the President of the Council.
- (f) The Vice-President ~~or other presiding officer~~ shall possess the powers and perform the duties of the President of the Council when the President is absent, or when a temporary vacancy occurs in the Office of the President.

~~(Code 1916, § 3; Code 1962, § 2-8; Ord. No. 6114-77, § 1; Ord. No. 6237-77, § 2; Ord. No. 7025-82, § 2; Ord. No. 7929-88, § 1)~~

## Sec. 2-7. Duties of City Clerk as Clerk of Council.<sup>6</sup>

- (a) The City Clerk shall be the Clerk of the Common Council.

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<sup>4</sup>~~State law reference(s)—Presiding officer of the Common Council, IC 36-4-6-8.~~

<sup>5</sup>~~State law reference(s)—Presentation of ordinances to Mayor, IC 36-4-6-15 et seq.~~

<sup>6</sup>~~Cross-reference(s)—Powers and duties of City Clerk generally, § 2-14.~~



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- (b) The City Clerk shall be elected by the voters of the City at the time and in the same manner as other City officers are elected. The term of office shall commence on the first day of January following ~~his~~ the Clerk's election and shall continue for four (4) years thereafter.
  - (c) The Clerk, or a designated representative of the Clerk's Office, in addition to the powers and duties enumerated in section 2-14 of this Code, shall attend all regular and special meetings of the Council and shall keep an accurate journal of the proceedings of the Council and exercise and perform the powers and duties as provided and prescribed by law, this Code or ordinances. The City Clerk's Office shall prepare minutes without consultation ~~of~~ with anyone not a part of said office.
  - (d) The Clerk shall call the roll at the beginning of each session of the Council and on the passage vote of every ordinance and resolution and ~~on all other votes~~, whenever requested by two (2) members on any other votes and record the ayes and nays by Council Member name in the minutes.
  - (e) The Council Members shall be called in the following order: First, the District Council Members in the order of their districts; next the Council Members-at-Large in alphabetical order; last, the presiding officer. On all requested roll call votes when sitting as Committee of the Whole, on all third readings of bills, and on all resolutions, the Clerk shall call the roll rotating the call of each Council Member by one position.<sup>7</sup>
  - (f) The Clerk shall provide and maintain in the City Clerk's Office a supply of forms for all matters required to be filed with the City Clerk.
  - (g) The Clerk shall have the power to administer oaths of office.
  - (h) The Clerk shall make available to the press and any other interested person, upon request, all public information which is available concerning the subjects to be discussed at any regular, special or informal ~~meeting~~ meetings of the Council, and shall also make available the time, date and place of such meetings.
  - (i) Upon the request ~~by the President of the Council or the Chair Person or a Council committee~~ of any Council Member or the Council Attorney on behalf of any Council Member, the Office of the City Clerk shall provide other supportive clerical assistance and other related services to the Council, its standing committees, and such other committees which include Council representatives. Such services shall be provided to further effectuate the necessary obligations, responsibilities and duties required of the Council Members and to further the effective and efficient operation of the Council.
  - (j) The City Clerk's Office shall maintain all minutes of the standing and special committees of the Common Council which are duly filed with said office by the ~~Chair Person~~ Chairperson of the Committee. The minutes shall be maintained with the notices of such meetings in a separate and permanent folder for each committee. All folders shall be open for public inspection and available for copying at a reasonable cost to members of the public.

~~{Code 1916, § 4; Code 1962, § 2-7; Ord. No. 6114-77, § 1; Ord. No. 6814-80, § 1; Ord. No. 7025-82, § 2; Ord. No. 7862-88, § 1; Ord. No. 7929-88, § 1}~~

### **Sec. 2-7.1. Sergeant-at-Arms.**

- (a) ~~Upon the recommendation of the President of the Council, the~~ The Chief of Police shall designate, detail and assign a police officer to act as sergeant-at-arms for the Council who shall exercise duties as shall be designated by the Council.

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<sup>7</sup>~~State law reference(s)—Clerk of the Council, IC 36-4-6-9.~~



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- (b) The Sergeant-at-Arms shall exercise and perform other duties as may be prescribed by this Code and the laws of this State for the effective operation and conduct of the Council.

~~(Ord. No. 6114-77, § 1)~~

### **Sec. 2-7.2. Council attorney.**

- (a) A Council attorney may be appointed by the President of the Common Council subject to the approval of the Council.
- (b) The Council attorney shall be responsible to see that all ordinances and resolutions requested by Council Members are drafted; shall review all proposed ordinances and resolutions as to form and legality; shall advise the Office of the City Clerk as to all matters regarding publication and codification of ordinances; and shall give legal advice as requested by the Common Council, its committees and its members.

(Ord. No. 6114-77, § 1; Ord. No. 7929-88, § 1)

### **Sec. 2-8. Decorum and debate regulating Common Council.**

- (a) The presiding officer shall preserve order and decorum at all Council meetings. When necessary, the presiding officer may seek the assistance of the Sergeant-at-Arms in the enforcement of this provision.
- (b) Each member of the Common Council shall be present within the Council Chamber during the sessions of the Council, ~~unless excused or necessarily prevented from being present~~, and shall vote on each question put unless excused from voting by a majority of the members present. Any Council Member not present shall be noted in the minutes as absent.
- (c) A Council Member shall not vote, or take any other discretionary action in ~~his or her~~the Member's official capacity, except in the exercise of ~~his or her~~the Member's own independent judgment, reached after due regard for the collective interests of ~~his or her~~the Member's constituency as a whole, and of the citizens and the community of the City of South Bend. The prohibition in this subsection extends to any agreement to take action in violation of this subsection and to any effort to induce other Council Members to violate it.
- (d) Whenever a Council Member has or is likely to have a substantial conflict of interest in connection with a matter pending before the Council in which ~~his or her~~the Member's action may be influenced by possible economic benefits or material personal gain, ~~he or she~~the Member shall disclose fully the nature of ~~his or her~~the potential conflict of interest, in which event ~~he or she~~the Member may continue to participate in the deliberations and vote on the matter if it is determined by a majority of the Council present that it is not a ~~material-substantial~~ conflict of interest.
- (e) Whenever a Council Member has or is likely to have a substantial conflict of interest in connection with any official matter other than one pending before the Council, ~~he or she~~the Member shall either:
- (1) Disqualify himself or herself from further participation in the proceeding; or
  - (2) Conduct himself or herself in accordance with an advisory opinion from the Council Rules Committee.
- (f) Council Members shall not derive or attempt to derive any unjustified enrichment from their office. This subsection forbids:
- (1) The solicitation or acceptance of any bribe, or any gift, or other material, economic or personal benefit, or of any promise of similar benefit, which ~~he or she~~the Member believes or reasonably should believe was intended to influence ~~his or her~~the Member's vote or other action to be taken in ~~his or her~~the Member's official capacity; or

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- (2) The solicitation or acceptance of any gift or other economic or personal benefit conferred because of any vote or other action in ~~his or her~~the Member's official capacity already taken by ~~him or her~~the Member; or
  - (3) The acquisition or use for personal purposes of any property, services or funds of the City, unless authorized by law; or
  - (4) The use for personal gain of information pertaining to the City of South Bend, which is not a matter of public record, at a time when it is treated as confidential by the officials of the City.
- (g) When any Council Member is about to speak or deliver any matter to the Council, he or she shall respectfully address himself or herself to the presiding officer, and upon being recognized, confine himself or herself to the question in debate, and avoid personality, the presiding officer shall not recognize any Council Member as in order, unless he or she is in his or her proper seat.
  - (h) When two (2) or more ~~members~~Members seek recognition at once, the presiding officer shall name the ~~member~~Member entitled to speak.
  - (i) No member shall speak more than twice nor for more than five (5) minutes on the second occasion, upon any one (1) question or issue in debate during the same meeting. A member shall only be granted the right to speak a second time on the same question or issue after each member has had an opportunity to speak on said issue or question.
  - (j) While the presiding officer is putting the question or addressing the Council, no ~~member~~Member shall walk out of or across the Council Chamber or engage in private discourse.
  - (k) No ~~member~~Member shall impugn ~~a motive~~the motive of another.
  - (l) Any member may change ~~his~~their vote before the announcement of the result ~~of~~by the presiding officer.
  - (m) If any ~~member~~Member, in speaking or otherwise, shall transgress the rules of the Council, the presiding officer shall, or any ~~member~~Member may, call ~~him or her~~that Member to order, in which case ~~he or she~~the Member shall immediately cease the transgression unless permitted, on motion of another ~~member~~Member, to explain; and the Council shall, if appealed to, decide the case without debate by a majority vote of the Members present. If the decision is in favor of the ~~member~~Member called to order, ~~he or she~~that Member shall be at liberty to proceed, but not otherwise, and if the case requires it, ~~he or she~~that Member shall be liable to the censure of the Council.
  - (n) Should any Council Member, in the course of ~~his or her~~the Member's remarks, violate a second time any rule of the Council, and again be called to order ~~he or she~~that Member shall not speak further upon the pending question, except by permission of two-thirds (⅔) of the members present.
  - (o) Each Council Member shall observe the highest standards of dignity, propriety, courtesy, respect and decorum when with ~~his or her fellow~~other Council Members, officers and employees of the ~~city~~City, and all other persons, and when carrying out any of the responsibilities, duties and services allowed or mandated by the office of a Council Member.
  - (p) Unless excused in advance by the ~~Council President~~presiding officer, persons in the Council Chambers and in the Council Informal Meeting Room shall turn ~~their~~all cell phones, and any other electronic devices to ~~their~~ silent mode when the Common Council is in session and when any Standing Committee meeting is in progress. Council Members and citizen members of any Standing Committee may not send, view or listen to any electronic message communications while ~~he/she~~a Council or citizen member is part of the quorum for such meeting, or while such meeting is in progress. Any electronic device which is used through City-controlled ~~access~~access, and which is needed during the Common ~~Council~~Council, or any Standing Committee is permitted for the purpose of accessing city information, city presentations, and to record minutes and notes.<sup>‡</sup>



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<sup>1</sup>All communications sent on an electronic device which is used through a City-controlled access or network will be captured by the City and may become part of the public record.

- (q) As used in this Article, "electronic device" means a wireless and/or portable electronic handheld piece of equipment that includes, but is not limited to, existing and emerging mobile communication systems and smart technologies (cell phones, smart phones walkie-talkies, pagers, etc.) portable internet devices (mobile managers, mobile messengers, BlackBerry T handset, etc.) Personal Digital Assistants (PDAs), (Palm organizers, pocket PCs, etc.) and any other convergent communication technologies that do any number of the previously mentioned functions. "Electronic device" also includes any current or emerging wireless handheld technologies or portable information technology systems that can be used for word processing, wireless internet access and information transmitting/receiving, etc. Tape recorders and cameras ~~and~~<sup>2</sup> ~~hearing and hearing~~ aids<sup>3</sup> shall be excluded from the definition of "electronic devices" as used in this Article. Emergency communication devices used by sworn police officers and medical first responders who are in attendance of a Common Council or Standing Committee meeting shall be in excluded from the provisions of this Article.

<sup>2</sup>IC 5-14-1.5-1 et seq., sets forth the Indiana Open Door Law. In *Berry v. Peoples Broadcasting Corp.*, 547 N.E. 2nd 231, 1089 Ind. LEXIS 402 (Ind. 1989), held that under the Indiana Open Door Law, a government body could not ban the use of cameras and tape recorders at its public hearings. IC 5-14-3-1 et seq., sets forth the Access to Public Records State Law.

<sup>3</sup>Hearing aids are defined by the National Institute of Deafness and Other Communication Disorders (NIDCD) as a "small electronic device that you wear in or behind an ear which is designed to make some sounds louder so that a person with hearing loss can listen, communicate and participate more fully in daily activities."

(Code 1916, § 5; Code 1962, § 2-9; Ord. No. 6114-77, § 1; Ord. No. 7929-88, § 1; Ord. No. 9504-04, § 1; Ord. No. 10080-11, § 1, 4-11-11)

### Sec. 2-8.1. Parliamentarian of the Common Council.

- (a) The Council ~~a~~Attorney or in ~~his or her~~the Council Attorney's absence, the City attorney, or designate of the ~~Department of Law~~City Legal Department, shall act as Parliamentarian of the Common Council at all general, ~~and~~ special ~~and committee~~ meetings of the Council.
- (b) The Parliamentarian shall decide all procedural questions only upon request of any Council Member during a meeting. Such decisions shall be advisory in nature.
- (c) The Parliamentarian shall have in ~~his or her~~the Parliamentarian's possession the appropriate rules and regulations governing the Council at all general, ~~and~~ special ~~and committee~~ meetings.
- (d) Any advisory decision made by the Parliamentarian may be accepted or rejected by the Council, and once acted upon by the presiding officer, the presiding officer's decision may then be subject to further appropriate action by the Council.

(Ord. No. 6114-77, § 1; Ord. No. 7929-88, § 1)

### Sec. 2-9. Parliamentary procedure for the Common Council.<sup>8</sup>

- (a) The most recent edition of Robert's Rules of Order shall be the authority on all questions of parliamentary law and procedure not specifically covered by this article. For the purposes of this article, parliamentary law shall mean the enacted rules and recognized usages which govern the procedure of legislative assemblies.

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<sup>8</sup>State law reference(s)—As to Council procedure, see IC 36-4-6-1 et seq.



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- (b) A majority of all the Council Members shall constitute a quorum for the transaction of business of the Council. It shall require a majority vote of all the Council Members to pass an ordinance or resolution. Whenever by law it is required that any ordinance or resolution shall be passed by a two-thirds ( $\frac{2}{3}$ ) vote, such requirement shall be construed to mean a two-thirds ( $\frac{2}{3}$ ) vote of all Council Members.
  - (c) No one not a member of Council shall be permitted to address the same, except upon invitation by the presiding officer or by a majority vote of the Council.
  - (d) No ordinance or resolution shall be received or considered by the Council unless it is presented by some member thereof, a duly authorized member of the City Administration, or as provided by law.
  - (e) Every motion made by any member of the Council and entertained by the presiding officer shall be reduced to writing on the demand of any member.
  - (f) When a motion has been made, the presiding officer shall state it, or if in writing, ~~he or she~~ shall cause it to be read aloud by the Clerk before being debated; and it shall then be in the possession of the ~~Council~~, but Council but may be withdrawn at any time before a decision or amendment.
  - (g) Abstention: When in order to enact an ordinance, resolution or motion, State law requires a majority of the Council to vote "aye," the following procedures shall be applicable in calculating said majority:
    - (1) Only Council Members who have disqualified themselves on a matter due to a substantial conflict of ~~interest, or interest or~~ have disclosed fully the nature of their conflict of interest pursuant to the provisions of this article are entitled to an abstention.
    - (2) Abstentions shall not be counted as either an "aye" or "nay" vote.
  - (h) The presiding officer shall decide whether any question is carried by affirmative or a negative vote; but if ~~he or she~~ the presiding officer is in doubt, and the "ayes" and "nays" or a division be called for, the presiding officer shall call for a roll call vote.
  - (i) When a question is under debate, no motion shall be received, but to adjourn, for the previous question (which motion shall be decided without debate), to lay on the table, to postpone to a day certain, to refer, to amend, or to postpone indefinitely, which several motions shall have preference in the order in which they are here arranged.
  - (j) The motion to adjourn and the motion to fix a time to which the Council shall adjourn shall always be in order, the latter motion taking precedence over the former.
  - (k) The motion to lay an amendment on the table shall not affect the subject which it is proposed to amend.
  - (l) A "call for question" motion shall be proper after each member present has had the opportunity to address the specific issue under debate. Said motion shall not require a second and upon such a motion all debate shall cease. The presiding officer shall then repeat the "call for question" motion pending before the Council and ask for a voice vote on said issue.
  - (m) The motion to postpone to a day-date certain can be amended by altering the time.
  - (n) The motion to commit may be amended by altering the committee or by giving instructions.
  - (o) A motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one (1) amendment may be offered, but neither may be withdrawn before amendment or decision is had thereon.
  - (p) No motion or proposition postponed indefinitely shall be taken up again at the same or next succeeding meeting.
  - (q) A question shall be divided on the demand of any member, if it includes two (2) or more distinct propositions.

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- (r) A motion to strike out and insert shall be indivisible, but a motion to strike out being lost shall neither preclude amendment, nor motion to strike out and insert, and no motion or proposition on a subject different from that under consideration shall be submitted under color of amendment.
  - (s) Motion to reconsider: When a motion has been made and carried or lost, it shall be in order for any member of the majority at the same or the next regular meeting, to move for the reconsideration thereof. Such a motion upon being made may be seconded by any Council Member and may be made at any time. It shall be debatable and requires a majority vote to prevail. No such motion shall be introduced at a subsequent ~~meeting, unless~~ meeting unless the member intending to make the same shall have given written notice of such intention at the meeting at which the vote which he or she desires to have reconsidered was taken.
  - (t) When a resolution is offered or a report or other matter presented, the presiding officer may take the reception thereof for granted, unless objection be made, when a formal motion shall be required.
  - (u) Appeals, questions of order, objections to the consideration of a question, the reading of papers, leave to withdraw a motion and suspension of the rules are questions which shall take precedence over and be decided before the question which gave rise to them; which several questions cannot be amended, and all questions of order which may arise pending a question which is not debatable must be decided without debate.
  - (v) Form of ordinances and resolutions: All legislation of the City shall be by ordinance or by resolution. The word "resolution" as used in this chapter shall be the official action of the Council, and shall be limited to matters authorized by local, State or Federal law, and to matters pertaining to the internal affairs or operations of City Government. All resolutions shall be assigned a bill number by the City Clerk's office upon being properly filed with the City Clerk's office. Each resolution must have a short title identifying the subject matter of the resolution, followed by "whereas" clauses which set forth the background information of the resolution. Following the end of the "whereas" portion, the next paragraph shall begin with the words "Now, therefore, be it resolved by the Common Council of the City of South Bend, Indiana, as follows:" and a section by section format shall follow thereafter. If the resolution is adopted by the Common Council and approved by the Mayor, the City Clerk's Office shall assign it a resolution number.

All matters of a general and permanent nature which address issues addressed in the South Bend Municipal Code, which establish fees, or which regulate ~~conduct~~conduct, or which prescribe penalties, shall be submitted in the form of an ordinance. Each ordinance shall be identified with a bill number assigned by the City Clerk's office upon proper filing with that Office. Each ordinance must have a short title, and must specifically refer to the chapter, article and section of the Code, when it proposes an amendment to the South Bend Municipal Code. Ordinances shall be numbered in the order they are passed, but shall be listed on the Council's agenda as they are introduced for filing, except when the Council may direct otherwise.

The following format shall be used when introducing a proposed ordinance for Council consideration:

- (1) Each bill filed for ordinance consideration shall begin after a preliminary "Statement of Purpose and Intent" which shall set forth the overall purpose(s) of the bill, as well as relevant background information addressing governing local, State or Federal law or policies. Following the end of the statement of purpose and intent, the next paragraph shall begin with the words: "Now therefore, be it ordained by the Common Council of the City of South Bend, Indiana, as follows:" with a section by section format following thereafter.
- (2) All bills filed for ordinance consideration which propose to amend the South Bend Municipal Code must include a detailed summary of the proposed changes in the statement of purpose and intent. All such bills must use one (1) of the following formats:
  - a. Following the statement of purpose and intent section, the introductory sentence to the first section must include the words "Chapter \_\_\_\_\_, Article \_\_\_\_\_, Section \_\_\_\_\_, of the South Bend Municipal Code shall be amended to read in its entirety as follows"; or



- b. Following the statement of purpose and intent section, the introductory sentence to each section of the South Bend Municipal Code which proposes new language must set forth the proposed new language in bold type or may underline such proposed new language, and must show the deletion of current words with a dash through such language, so long as that utilizing this format does not cause undue confusion.
- (3) Any bill ~~wishing submitted~~ to be considered for ordinance consideration which does not conform to the applicable requirements of this section may be rejected by the City Clerk's Office when presented for filing. Any non-conforming bill not rejected by the City Clerk's office may be rejected by the Council President and/or the Chairperson of the standing committee having jurisdiction over the substance of the bill.
- (4) All proposed resolutions and ordinances must be accompanied by a separate cover letter from the party initiating such resolution or ordinance. Each such letter must clearly identify the salient points of the proposed resolution or ordinance, and must identify the person who will be giving the presentation at the public hearing, if different from the person signing the letter. Any proposed resolution or ordinance which is not accompanied by such a letter may be rejected by the City Clerk's Office when presented for filing.
- (5) ~~Proposed resolutions~~ Resolutions or ordinances proposed by the City Administration should when at all possible and in the interest of furthering better communications between the administrative and legislative branches, have the proposed resolution or ordinance signed by the Chairperson of the Standing Committee which has jurisdiction over the subject matter addressed in the proposed legislation.
- (6) Resolutions or ordinances proposed by one or more Council members should, when at all possible and in the interest of furthering better communications between Council members and expediting consideration of bills, have the proposed resolution or ordinance reviewed and signed by the Chairperson of the Standing Committee which has jurisdiction over the subject matter addressed in the proposed legislation. Any such proposed resolution or ordinance not signed by the Chairperson of the Standing Committee which has jurisdiction over the subject matter addressed in the proposed legislation will not be considered by a Standing Committee or the Council unless three (3) or more Council members are cosponsors of the bill.
- ~~(67)~~ The party initiating any legislation which is amended during the Common Council's public hearing, must file a complete original of such amended legislation with the Office of the City Clerk, by the next business day.
- ~~(78)~~ If the proposed ordinance is passed by the Common Council and approved by the Mayor, the City Clerk's Office shall assign it an ordinance number.
- ~~(89)~~ Any substitute proposed resolution or substitute proposed ordinance filed with the City Clerk for Council consideration which is filed to replace an original filing with that office, must be accompanied with a cover letter which summarizes the changes being recommended in the substitute version.
- ~~(910)~~ The signatory section for a bill or proposed resolution shall read as follows:

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.



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City Clerk

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

Mayor of the City of South Bend, Indiana

- (w) Every bill filed for ordinance consideration shall be read a total of three (3) times by title by the Clerk. If a bill's title was amended in the Committee of the Whole, the amended title shall be read by the Clerk at third reading. No bill shall be read the third time at the same meeting it is introduced unless by unanimous roll call vote of all Council Members present. Additionally, there must be at least two-thirds (⅔) of the entire Council present to carry such a motion.

The City Clerk shall read by title only all bills filed for first reading. At that time the Council may send the bill to a proper Council Committee for review and recommendation, if appropriate, and set a date for second reading, public hearing and third reading. At the time of public hearing before the Committee of the Whole of the Council, on said bill, the Clerk shall read the bill by number and title only. When amendments to bills are approved by the Council which amend the title of said bill, the Clerk shall read the amended title on second and/or third reading(s). The bill shall receive a third reading by title only, after which a formal vote of the Common Council shall be taken on the bill.

- ~~(x)~~ No bill filed for ordinance consideration or proposed resolution shall appear on the agenda of a ~~regular meeting~~regular meeting of the Common Council unless said bill or proposed resolution has been properly filed in the Office of the City Clerk on or before the Wednesday at 12:00 noon immediately prior to said regular meeting. All such filings shall be on eight and one-half by eleven inch (8½" × 11") white paper and/or filed electronically with the Office of the City Clerk, along with a proper cover letter as further addressed in subsection (v)(4) of this section. In matters dealing with proposed rezonings, tax abatements, vacations of public property, variances and special exceptions, or any other matter where a petition or other document is required at time of filing, all required attachments must be filed at time of filing the bill or proposed resolution. Any exhibits referenced in a bill or proposed resolution must accompany the document at time of filing. In the event that a filing is not complete, the Office of the City Clerk may reject a proposed filing as further addressed in subsection (v)(3) of this section. Special or Commendation resolutions may be filed on eight and one-half by ~~fourteen~~fourteen inch (8½" × 14") white paper and/or filed electronically with the Office of the City Clerk. This subsection is not applicable to special meetings. The City Clerk's office may reject all ordinances and resolutions not meeting the filing deadline, or in the alternative, may schedule such late filing(s) for the next subsequent Council meeting agenda. The Clerk's Office shall immediately notify the Council President, the Chairperson of the Standing Committee which has jurisdiction over the proposed bill and the sponsor(s) of the proposed bill if the bill has been rejected or scheduled for the next subsequent Council meeting agenda.

- ~~(x)~~ The City Clerk's office may reject all such resolutions not meeting the filing deadline, or in the alternative, may schedule such late filing(s) for the next subsequent Council meeting agenda. The Clerk's Office shall immediately notify the Council President and the sponsor(s) of the proposed bill if the bill has been rejected or scheduled for the next subsequent Council meeting agenda. The "Special" or "Commendation" resolution may, in the President's sole discretion, be placed on the agenda of the upcoming Council meeting. Such resolutions shall not be assigned to a Standing Committee and shall be subject to a voice vote, not a roll call vote.

- (y) "Special Proclamations" may be presented by one or more Council members on their own behalf to individuals, groups or organizations at any time and place other than a Council meeting.

- (yz) When a bill is introduced, it shall be read by title by the City Clerk after which the presiding officer shall entertain a motion for disposition.

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- (~~z~~~~a~~~~a~~) The third reading of the bill shall be by title, after which the presiding officer shall state that "This is the third reading of the bill, the question is shall the bill pass?"
- (~~a~~~~a~~~~b~~~~b~~) Any bill may be stricken from the files at any time before passage by a two-thirds ( $\frac{2}{3}$ ) vote of all members elected.
- (~~b~~~~b~~~~c~~~~c~~) Any bill failing to receive a sufficient number of votes on final passage will be considered as lost and stricken from the files, provided the vote is not reconsidered, as authorized by subsection(s) of this section.
- (~~e~~~~e~~~~d~~~~d~~) All votes upon the passage of bills and resolutions, and upon motions to suspend the rules or motions to reconsider shall be by roll call.
- (~~d~~~~d~~~~e~~~~e~~) When a resolution is introduced, it shall be read by title only, after which, if there is no objection, it shall stand ready for adoption following its public hearing. If there is objection, it shall be in order for any member to make a proper motion for disposition of the resolution.
- (~~e~~~~e~~~~f~~~~f~~) No proposition to rescind or change any standing rule or order of the Common Council shall be passed at the same meeting it is submitted; nor shall any proposition having the force and effect of a bylaw or a standing rule or other relating to the government of the Council or the duties of any of the City officers by passed except in the form of an ordinance and according to the forms prescribed for the passage of ordinances.
- (~~f~~~~f~~~~g~~~~g~~) Effective date: The effective date of all bills shall be prescribed therein; however, no bill prescribing a penalty or forfeiture for a violation shall become effective before publication in the manner prescribed by IC 36-4-6-14(b) or (c).
- (~~g~~~~g~~~~h~~~~h~~) Severability: Unless a bill shall expressly provide to the contrary, if any portion of a bill or the application thereof to any person or circumstances shall be found to be invalid by a court of competent jurisdiction such invalidity shall not affect the remaining portion or application, provided such remaining portions or applications are not determined by the court to be inoperative and to this end bills are declared to be severable.
- (~~h~~~~h~~~~i~~~~i~~) The presiding officer may, upon a member of the public being recognized to address the Council, limit him or her to no more than five (5) minutes, unless a majority of the Council Members present vote to extend such period.
- (~~h~~~~h~~~~j~~~~j~~) Each member of the public who wishes to be recognized by the presiding officer in order to speak during a public hearing, must give his or her name and address for the record.
- (~~j~~~~j~~~~k~~~~k~~) No member of the public may speak twice on the same issue unless a majority of the Council Members present vote to allow such a second presentation. A three-minute limit shall apply to such a second presentation.

~~{Code 1916, § 6; Code 1962, § 2-10; Ord. No. 5449-72, § 1; Ord. No. 6114-77, § 1; Ord. No. 7025-82, § 2; Ord. No. 7862-88, § 1; Ord. No. 7929-88, § 1; Ord. No. 8462-94, § 2; Ord. No. 9211-01, § 1; Ord. No. 9504-04, §§ II-IV}~~

### ~~Sec. 2-9.1 Reserved.~~

~~Editor's note(s)—Ord. No. 10435-16, § 1, adopted April 11, 2016, repealed § 2-9.1, which pertained to policies and procedures governing City-owned technologies, Facebook standards, social media and social networking and derived from Ord. No. 10343-14, § 1, 12-8-14.~~

### ~~Sec. 2-10. Eleven standing committees of the Common Council; powers and duties.~~

- ~~(a) There shall be eleven (11) standing committees organized within the Common Council. Each standing committee, except the Council Rules Committee, shall consist of not less than three (3) Council Members.~~



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Council Members shall be appointed to each committee by the Council President at the beginning of each calendar year.

- (b) Each standing committee, except the Council Rules Committee, shall have not less than one (1) citizen member and at no time shall the number of citizen members constitute more than one-third ( $\frac{1}{3}$ ) of the total membership of each standing committee.
- (c) A person desiring to serve as a citizen member of any of the Council's standing committees, except the Council Rules Committee, must have been a resident of the City of South Bend for not less than one (1) year prior to being considered for appointment. City residency shall be a continuing requirement for membership on all such standing committees. Citizen members shall serve without compensation for one-year terms, with each appointment expiring by the first meeting of the succeeding calendar year of such appointment.
- (d) Citizen members shall be appointed by the Chairperson of each standing committee. In making such appointments, the Chairperson shall assure that the citizen members are broadly representative of the South Bend Community.
- (e) The Chairperson, with the assistance of the City Clerk or his designee, shall be responsible for filing Committee minutes with office of the City Clerk within two (2) weeks after each committee meeting. Such minutes shall comply with the Open Door Law and shall include but not be limited to:
  - (1) The date, time and place of the meeting;
  - (2) Persons in attendance;
  - (3) Summary of all items discussed including all references to proposed resolution and ordinances referred to it for review and recommendation;
  - (4) A record of all votes taken; and the time of adjournment.Any documents submitted to a Committee shall be filed with the original of the committee minutes with the Office of the City Clerk. Any majority or minority reports filed with a Committee shall also be attached to such Committee minutes. Upon the approval and signing of such minutes by the Committee Chairperson, the Office of the City Clerk shall see that the minutes are properly posted on the Common Council's website.
- (f) The Office of the City Clerk shall send to each citizen member notices of all Committee meetings to which they are appointed, along with copies of proposed resolutions or ordinances sent to such Committee for review and recommendation no later than two (2) business days prior to the Committee meeting.
- (g) Any citizen member vacancy of a standing committee shall be filled for the unexpired term in the same manner as the original appointment. A vacancy shall be deemed to exist upon the occurrence of any one (1) of the following conditions:
  - (1) If a citizen member moves his or her permanent place of domicile out of the City of South Bend, dies, resigns, or for any reason refuses to serve during the period for which he or she was appointed; or
  - (2) If a citizen member fails to attend and participate in the meetings of the standing committee as may be determined by the Committee Chairperson in consultation with the Council President.
- (h) All duly appointed citizen members shall have the right to make appropriate motions at Committee meetings and participate in Committee discussions. All such citizen members shall have the right to vote on all matters coming before the Committee to which he or she has been appointed.
- (i) There shall be eleven (11) standing committees of the South Bend Common Council. These committees and their area of jurisdiction are as follows:
  - (1) Parks, Arts, Recreation and Culture (PARC) Committee: Overseeing the various activities of the Century Center, Regional Museum of Art, College Football Hall of Fame, Morris Performing Arts Center, Department of Parks and Recreation, Studebaker Museum and related activities.



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- (2) Community Investment Committee: Overseeing the various activities of the Community Investment Department and programs directed by this Department.
  - (3) Community Relations Committee: Overseeing the various activities of the Office of Community Affairs and the relationships and ongoing communications with other public and private entities operating within the City of South Bend. The Chairperson of the Community Relations Committee shall schedule not less than two (2) committee meetings each calendar year inviting the superintendent, school trustees of the South Bend Community School Corporation Board of Trustees, their committees or designated representatives and other nonpublic school officials operating within the City of South Bend to discuss school/community relations. The Chairperson may schedule any additional meetings in a calendar year on school/community relations as he or she deems appropriate. The Chairperson shall additionally schedule committee meetings with the Residential Neighborhoods Committee to receive and discuss information from the Community/Campus Advisory Coalition (CCAC) and all City agencies, offices and departments involved with public safety regulations, as further addressed in Section 14-60 of the South Bend Municipal Code.
  - (4) Council Rules Committee: Overseeing rules and regulations governing the operation of the South Bend Common Council, as well as all matters of public trust as more specifically set forth in Section 2-10.1 of the Municipal Code and applicable State and Federal laws.
  - (5) Health and Public Safety Committee: Overseeing the various activities performed by the Department of Code Enforcement, EMS, Fire Department, Police Department, ordinance violations and related public health and safety issues.
  - (6) Information and Technology Committee: Overseeing the various activities of the City's information technologies so that all computer systems, websites, and related technologies are maintained and upgraded so as to remain competitive and up to date with current industry standards.
  - (7) Personnel and Finance Committee: Overseeing the various activities performed by the Department of Administration and Finance, salaries, budgets, fiscal matters and personnel policies and procedures of the City.
  - (8) Public Works and Property Vacation Committee: Overseeing the various activities performed by the Building Department, the Department of Public Works and related public works and property vacation issues.
  - (9) Residential Neighborhoods Committee: Overseeing the various activities of the Neighborhood Partnership Centers and issues related to neighborhood development and enhancement.
  - (10) Utilities Committee: Overseeing the various activities of all enterprise entities including, but not limited to the Bureau of Waterworks, Bureau of Sewers and all related entities.
  - (11) Zoning and Annexation: Overseeing the various activities related to the Board of Zoning Appeals, Area Plan Commission and the Historic Preservation Commission as well as all related matters addressing annexation and zoning.

The general responsibilities of each standing committee shall include the right to review all legislative proposals, reports and other pertinent information under its jurisdiction; and to monitor on a continuing basis the department(s), bureau(s) and public officials under its jurisdiction. All committees shall deal with any issues referred to it by the Council President or referred to it by a majority of the Common Council. Each standing committee shall report periodically to the Common Council with an annual committee report highlighting activities of the past year by the second Monday of December of each year.

The Chairperson, with the assistance of the City Clerk, or his or her a authorized representative from the Office of the City Clerk, shall be responsible for filing Committee minutes with the Office of the City Clerk within two (2) weeks after each committee meeting. Such minutes shall comply with the Open Door Law and



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shall include but not be limited to: (1) the date, time and place of the meeting; (2) persons in attendance; (3) summary of all items discussed including all references to proposed resolutions and ordinances referred to in it for review and recommendation; (4) a record of all votes taken; and the time of adjournment. Any documents submitted to a Committee shall be filed with the original of the committee minutes with the Office of the City Clerk. Any majority or minority reports filed with a committee shall also be attached to such committee minutes.

The Council President shall appoint the Chairperson and Vice Chairperson of each standing committee following his or her election as Council President. A majority of the total membership of a standing committee shall constitute a quorum. The Council President shall have the right to vote on each standing committee only in the event of a tie.

The Office of the City Clerk shall provide notice of all committee meetings, pursuant to applicable State law. Such notice(s) shall also be sent to all citizen members on a committee calling a meeting, along with all copies of documents sent to a standing committee for review and recommendation.

- (j) The Council President may appoint special or ad hoc committees. Such committees shall be considered advisory to the Common Council. Such committees shall file appropriate written reports addressing the issue(s) for which they were created with the Council President. Following the completion of their purpose, such special or ad hoc committee shall be dissolved by the Council President unless a majority of the Common Council determines to continue the existence of such committee for a long period of time.
- (k) The governing rules of the Common Council as far as they are applicable shall be the rules of each of the standing committees unless determined otherwise by the Committee Chairperson.
- (l) It shall be the duty of the Chair Person of each Council Committee to report promptly to the Common Council on all proposed resolutions, ordinances and other matters referred to it for review and recommendation.
- (m) Public hearings on proposed resolutions or ordinances coming before a standing committee shall be conducted pursuant to the following procedures:
  - (1) Report by an entity having advisory review [Example: Area Plan, Board of Zoning Appeals, Board of Public Works, Community Development, etc.];
  - (2) Presentation by the parties filing the proposed legislation with copies of all handouts being presented to all Council Members and for the public record;
  - (3) Public portion: Those speaking in favor shall be followed by those speaking in opposition;
  - (4) Rebuttal by the petitioning parties; and
  - (5) Committee discussion and recommendation by proper motions.
- (n) The standing committees are authorized to receive exhibits, hear witnesses, and use all applicable powers to procure relevant information on issues referred for review and recommendation. The Committee Chairperson shall report to the Common Council verbally on all action taken on proposed resolutions and ordinances.
- (o) In order to assure proper respect to the conduct of all standing committee hearings, the highest standards of dignity, propriety, courtesy and decorum shall be upheld in order to assure the proper fact-finding mission through the hearing process. The Chairperson may establish special rules governing such hearings as circumstances may require.
- (p) All Council Members and all citizen members of a Council Standing Committee shall abide by the State of Indiana's Uniform Conflict of Interest Disclosure Statement policies and procedures.



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(Code 1916, § 7; Code 1962, § 2-11; Ord. No. 5484-73, § 1; Ord. No. 5783-75, § 1; Ord. No. 6032-76, § 1; Ord. No. 6114-77, § 1; Ord. No. 6139-77, § 1; Ord. No. 6237-77, § 3; Ord. No. 6814-80, § 2; Ord. No. 7248-83, § 1; Ord. No. 7297-84, § 1; Ord. No. 7862-88, § 1; Ord. No. 7929-88, § 1; Ord. No. 8237-92, § 1; Ord. No. 8462-94, §§ 3, 4; Ord. No. 9211-01, § II; Ord. No. 9488-04, § I; Ord. No. 9504-04, § V; Ord. No. 9830-08, § 1; Ord. No. 9964-09, § I, 9-28-09; Ord. No. 10080-11, § II, 4-11-11; Ord. No. 10195-12, § III, 10-22-12; Ord. No. 10214-13, § I, 1-14-13)

### **Sec. 2-10.1. Powers, duties and procedures of the Council Rules Committee.**

- (a) ~~Standard of conduct generally:~~ The Common Council recognizes that its Council Members hold their offices as a trust conferred upon them by the citizen voters of the community, and that this public trust requires all Council Members to observe the highest standard of conduct in carrying out their official duties.
- (b) ~~Function:~~ The Council further recognizes the Council Rules Committee as part of the enforcing mechanism of the rules and regulations governing the Common Council.
- (c) ~~Composition:~~ The Council Rules Committee referred to hereinafter as "committee" shall consist of not less than three (3) members, of whom there shall be a reflection of the political composition of the Council. However, the remaining odd-numbered member shall be the President of the Common Council.
- (d) ~~Vacancies:~~ A vacancy on the Rules Committee due to cause shall be filled for the unexpired term in the same manner as the original appointment. A temporary vacancy shall be deemed to exist if the matter under investigation by the committee involves any of the committee members. Said member may return to the committee after the matter has been finally resolved and if the Council Member desires to be reinstated.
- (e) ~~Officers and staff:~~ The committee shall elect from its membership a Chair Person and a Vice Chair Person who shall each be selected for one-year terms. The City Clerk or a designee of said office shall serve as the custodian of its records and minutes. The City Attorney's Office and the Council attorneys may furnish legal assistance to the committee, and the committee, within the limits of its budgetary appropriation may be authorized to employ or engage the services of such other personnel on a limited basis as it deems necessary for the purposes for which it was created.
- (f) ~~Duties:~~ The committee, in addition to such other duties as may be prescribed to it by this Code, shall have the following responsibilities:
  - (1) ~~To receive and hear any complaint properly filed which alleges misconduct of any Council Member or any violation of the rules and regulations thereof;~~
  - (2) ~~To obtain information with respect to any complaint filed pursuant to this section and to that end may issue subpoenas upon a majority vote of its members to compel the attendance and testimony of witnesses, and to issue subpoena duces tecum for the production of books, papers, records or other documents relevant or material to any matter under investigation or in question before the committee;~~
  - (3) ~~To recommend to the Common Council whatever sanction deemed appropriate with respect to particular Council Members as will best maintain in the minds of the public the highest standard of conduct and character in carrying out official Council duties;~~
  - (4) ~~To recommend additional legislation to the Council relating to the conduct and ethics of the Council Members;~~
  - (5) ~~To act as an advisory body to the Common Council and to individual Council Members on questions relating to possible conflicts of interest and misconduct;~~
  - (6) ~~To maintain permanent records of its investigations, inquiries and proceedings; and~~



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(7) Issue contempt citations upon the vote of the majority against any person of Council Member who fails or refuses to appear in compliance with a subpoena, or having appeared, fails to testify under oath; or fails to furnish relevant material pursuant to a subpoena duces tecum.

(g) *Investigations:* The committee shall conduct an investigation into the alleged conduct of any Council Member only: (a) upon written complaint signed by the complaining party; or (b) if initiated by at least two (2) members of the committee. When a complaint is filed with the committee, a copy shall be promptly sent to the Council Member alleged to have committed the violation. The committee shall determine in a nonpublic executive session whether the complaint alleges facts sufficient to constitute statutory violation. In making such determination the committee shall:

(1) Determine by the affirmative vote of the majority of the committee that the complaint fails to allege specific facts which if proven, would constitute a violation of the rules and regulations;

(2) Refer the complaint to the proper legal advisor or other person designated by the committee for such purpose, who shall perform a preliminary investigation and report back to the committee as soon as possible for their next meeting, where a recommendation as to the nature and scope of any further action on the case is then made.

If the committee determines the complaint does not allege facts sufficient to constitute a Code or statutory violation, the complaint shall be dismissed and the complainant and Council Member so notified. If the committee determines the complaint does allege facts sufficient to constitute a Code or statutory violation, it shall promptly investigate the alleged violation. If, after the limited preliminary investigation, the committee determines that probable cause exists to support an alleged violation, it shall convene a hearing on the matter within thirty (30) days after making such determination. All action and all records relating to the preliminary investigation shall be confidential.

(h) *Hearings:* If the committee determines a public hearing is to be held, the Council Member respondent shall be allowed to examine and make copies of all evidence in the committee's possession relating to the charge(s). At the hearing, the committee shall receive testimony and evidence and the charged party shall be afforded appropriate due process protection, including the right to be present at the hearing, the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross-examine opposing witnesses. All witnesses shall be sworn unless the Chairman, for good cause, decides that a witness does not have to be sworn.

(i) *Written report:* After the hearing, the committee shall make a written report of whether or not there was competent, sufficient and substantial evidence of a Code or statutory violation. Such report shall be supported and signed by a majority of committee members. If the committee determines that the Council Member respondent has not violated a Code or statutory provision, it shall dismiss the charge(s). If a violation is found by the committee, the committee shall then recommend appropriate sanction(s) to the Common Council.

(j) *Council action:* The Common Council shall consider and act upon each report from committee within ten (10) days after receipt thereof and make its findings known at a regular or special Council meeting. In making such a determination, the Council shall:

(1) Have the City Clerk send copies of the report and findings to each Council Member as soon as practicable;

(2) Not receive any testimony or other evidence but may remand a case to the committee for the taking of additional testimony with specific instructions as to what additional evidence or other testimony is needed;

(3) In its discretion hear opinions from the public present at said meeting, however, these opinions shall not be regarded as evidence;



- (4) — Affirm, modify or reject committee's findings as to whether or not a violation was committed;
  - (5) — Upon modification or rejection of committee's findings, file a written report setting forth the Council's findings and reasons therefor;
  - (6) — Not be bound to follow committee's recommendations as to sanctions.
- (k) — *Sanctions:* Upon finding that a Council Member respondent violated the code of conduct of the Common Council; or if a Council Member violated any other provision of this Code, the Council, by a majority vote, may take any or none of the following actions:
- (1) — Issue a private censure;
  - (2) — Issue a public censure;
  - (3) — Recommend to the Council Member respondent or to a Council Member who violated any other provision of this Chapter, that he or she resign his or her position on a standing and/or special committee;
  - (4) — Recommend to the Council Member respondent or to a Council Member who violated any other provision of this Chapter, that he or she resign from his or her office of Council Member;
  - (5) — Have the City Clerk, or his or her authorized representative from the Office of the City Clerk, take possession of any electronic device for the duration of the public meeting, from any Council Member or Standing Committee Member, who continues to use such electronic device in violation of Subsection 2-8(p) of the South Bend Municipal Code, after refusing to comply with a verbal request given by the presiding officer of such meeting to such member.
  - (6) — Refer the matter to the County Prosecutor's Office for appropriate action; or
  - (7) — Refer the matter, by a vote of two-thirds (2/3) of the Council for expulsion from the Common Council.
- (l) — *Advisory opinions:* Upon written request of any Council Member, the committee shall render an advisory opinion within thirty (30) days after receipt of the request on any question relating to possible conflicts of interest and misconduct affecting the Council Member's official function. A majority of the members of the committee shall concur in the opinion to be rendered. The committee shall maintain a permanent record of all opinions so rendered. Upon any advisory opinion being submitted to the Council at a general meeting, the Council shall affirm, modify or reject the committee's opinion giving reasons for any modifications or rejection. A Council Member shall not be held to have violated the standards of ethical conduct if he or she acted in reasonable and good faith reliance upon an advisory opinion duly affirmed by the Council.
- {Ord. No. 6114-77, § 1; Ord. No. 7929-88, § 1; Ord. No. 10080-11, § III, 4-11-11}

**Sec. 2-11. Committee of the Whole of the Council: Composition; procedure; powers and duties.**

- (a) — A Committee of the Whole of the Common Council shall be formed at the first organizational meeting after their election and at each annual reorganizational meeting thereafter, by the members choosing by majority vote of all Council Members and from their number, a Chair Person of such committee, which Chair Person shall serve for a one-year term. He or she shall preside at all meetings of such committee and in his or her absence, the Vice President shall preside.
- (b) — All bills, for ordinance consideration, resolutions and matters committed to such Committee of the Whole shall be read by the Clerk. The Clerk shall enter upon a separate paper all changes or amendments agreed upon by the committee, and reports of proceedings of such committee shall be made to the Council verbally.



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- (c) — The Rules of Procedure of the Council shall be observed (as well as parliamentary law) in such Committee of the Whole, so far as the same may be applicable, but no member shall speak more than twice on any question until every member choosing to speak shall have spoken.
- (d) — Public hearings on all bills for ordinance consideration and proposed resolutions and petitions shall be conducted as follows:
- (1) — The Chairperson of the Committee of the Whole shall briefly explain the procedures which will be followed for all public hearings on bills filed for ordinance consideration at the first regular Council meeting of each year. This shall be done immediately prior to the first bill scheduled for public hearing. At each regular and special meeting thereafter, the Chairperson of the Committee of the Whole shall announce that the procedures governing public hearings are available to the public in pamphlet form which are located next to the Council agendas at each meeting.
  - (2) — The Council President shall briefly explain the procedures to be followed for all public hearings on all proposed resolutions at the first regular Council meeting of each year. This shall be done immediately prior to the first resolution scheduled for public hearing. At each regular and special meeting thereafter, the Council President shall announce that the procedures governing public hearings on proposed resolutions are available to the public in pamphlet form.
  - (3) — The following procedures apply to public hearings:
    - i. — The City Clerk shall read each Bill by title only.
    - ii. — The Chairperson of the Council's Standing Committee to which the Bill was sent shall give a report on the recommendation from that Committee.
    - iii. — Reports from the Area Plan Commission or the Board of Zoning Appeals shall be given, when applicable.
    - iv. — A formal presentation on the Bill shall be made, which is not subject to a time limitation. Common Council Members shall have the right to ask preliminary questions to the presenter(s) immediately following the close of the formal presentation on the Bill. Members of the public supporting the Bill shall have the opportunity to address the Council. Each member of the public shall be required to state his or her name and residential address; or in the case of a proposal made on behalf of an entity other than a natural person or on behalf of a group of individuals, that person and/or their agent shall state his or her name and business address for the record prior to making remarks in support of the Bill. In some instances, each member of the public may also be required to sign a sheet at the public podium which calls for the listing of his or her name and residential address prior to speaking. Each member of the public speaking in favor of a Bill shall be limited to five (5) minutes for his or her presentation.
    - v. — If there is a formal presentation against the Bill under consideration, the person or agent speaking on behalf of such a remonstrance group shall not be subject to time limitation. Thereafter, each member of the public speaking in opposition shall be limited to five (5) minutes for his or her presentation. Each member of the public shall be required to state his or her name and residential address; or in the case of a proposal made on behalf of an entity other than a natural person or on behalf of a group of individuals, that person and/or their agent shall state his or her name and business address for the record prior to making remarks in opposition to the Bill. In some instances, each member of the public may also be required to sign a sheet at the public podium which calls for the listing of his or her name and residential address prior to speaking. The remonstrance period following any formal presentation against the Bill under consideration shall not exceed the time used by members of the public who spoke in favor of the Bill or shall be limited to thirty (30) minutes, whichever is greater.



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- vi.—There shall be an automatic five-minute rebuttal period for the person or persons who made the formal presentation on the Bill under consideration, after which the public portion of the hearing is closed.
  - vii.—Following the public portion, the Council portion then takes place where members of the Council debate, ask questions and make motion(s) on the Bill under consideration. Each Bill must have a motion addressing the disposition of the Bill as it is then sent to the full Council for final action.

(Code 1916, § 8; Code 1962, § 2-12; Ord. No. 6114-77, § 1; Ord. No. 6760-80, § 1; Ord. No. 7862-88, § 1; Ord. No. 7929-88, § 1; Ord. No. 9504-04, § VI; Ord. No. 9570-05, § I)

### **Sec. 2-12. Council meetings; order of business.**

Business shall be conducted in the following order, unless the Council, by a two-thirds (2/3) vote shall suspend the rules:

- (1)—Invocation;
- (2)—Pledge to the flag;
- (3)—Roll call;
- (4)—Report from the Subcommittee on Minutes;
- (5)—Special business;
- (6)—Report(s) of City offices;
- (7)—Committee of the Whole:
  - (a)—Second readings by title only;
  - (b)—Public hearing on each bill listed;
  - (c)—Recommendation from the Committee of the Whole on each bill;
- (8)—Bills on third reading:
  - (a)—Third readings by title only;
  - (b)—Formal disposition on each bill by roll call vote;
- (9)—Resolutions:
  - (a)—Formal presentation;
  - (b)—Public hearing;
  - (c)—Roll call vote by council;
- (10)—Bills on first reading;
- (11)—Unfinished business;
- (12)—New business:
  - (a)—Council Members serving as representatives on other committees, commissions, boards, etc. [e.g., Area Plan Commission, Michiana Area Council of Governments (MACOG), Century Center Board of Managers, Solid Waste Management Board, etc.] shall provide verbal update(s) on meetings which they have attended in the past two (2) weeks; and
  - (b)—Council Members may announce upcoming events, meetings, etc.

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(13) ~~Privilege of the floor:~~

- ~~(a) Individuals who wish to address the Council must state their name and residential address.~~
- ~~(b) Individuals will be limited to three (3) minutes only. The maximum time limit for this portion of the meeting shall be thirty (30) minutes.~~
- ~~(c) Individuals may address only issues over which the City has jurisdiction.~~
- ~~(d) Individuals shall not be permitted to address topics which the Council has heard previously on the agenda.~~
- ~~(e) The Council President may assign a topic raised by an individual during the Privilege of the Floor to the appropriate Council Member; and/or request the City Clerk to contact a member of the City Administration for review and comment. All topics assigned shall be responded to at the next regularly scheduled Common Council meeting.~~

(14) ~~Adjournment.~~

~~(Code 1916, § 9; Code 1962, § 2-13; Ord. No. 5484-73, § 1; Ord. No. 6114-77, § 1; Ord. No. 7025-82, § 2; Ord. No. 7862-88, § 1; Ord. No. 9504-04, § VII)~~

**Sec. 2-12.1. Copies of correspondence and reports.**

- ~~(a) All bureau and department heads who send correspondence addressed to the entire Common Council shall include copies of the same for the City Clerk and the Council Attorney.~~
- ~~(b) All reports required by this Code or which are sent to the entire Common Council, shall also be sent to the City Clerk and the Council Attorney. The Clerk shall maintain copies of said reports and make them available to the public.~~

~~(Ord. No. 7025-82, § 2)~~

***DIVISION 1. YOUTH ADVISORY COUNCIL***

**Sec. 2-12.1.1. Youth Advisory Council created—Purpose.**

- ~~(a) A Youth Advisory Council is created for those of high school age grades 9—12. A Youth Advisory Council is established to enhance citizenship skills and to serve the best interests of youth in the City of South Bend, Indiana.~~
- ~~(b) A Junior Youth Advisory Council, under the supervision of the Youth Advisory Council, to foster citizenship skills of youth of intermediate-center age. The Youth Advisory Council would be required to prepare and file proper legislation for Common Council consideration, when it has determined that the Junior Youth Advisory Council should be created. Such Junior Youth Advisory Council would be representative of all public and private intermediate centers operating within the City of South Bend, Indiana.~~

~~(Ord. No. 9414-03, § 1; Ord. No. 10666-19, § 1, 8-26-19)~~



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### **Sec. 2-12.1.2. Membership of the Youth Advisory Council.**

The Youth Advisory Council shall be composed of eleven (11) to twenty (20) new members per cohort. Membership shall represent the rich diversity of the city's youth regarding gender, race, ethnic, socio-economic, and religious backgrounds. Youth Council Advisory Council Members shall include:

- (a) — At least one (1) Youth Member shall be appointed to represent each of the six (6) Councilmanic Districts.
- (b) — Upon passage of this ordinance, the Office of the City Clerk shall see that the "Application Form" for the Youth Advisory Council is able to be downloaded from the city website. The Office of the City Clerk shall see that information on the activities of the Youth Advisory Council are kept updated on the City's internet website. Hard copy application forms shall be available and kept on file in the Office of the City Clerk during regular business hours. Additionally, applications forms shall be made available on the City's website <http://www.southbendin.gov> on a twenty four (24) hour, seven (7) days a week basis.
  - (1) — All youth interested in consideration shall obtain and complete in its entirety an application form.
  - (2) — The Office of the City Clerk, by the application deadline, shall assimilate all information and timely distribute copies of all applications and references to the appropriate offices for consideration.
  - (3) — An Application Review Board shall review all applications. All youth interested in representing a Councilmanic District must be a resident of the City of South Bend, Indiana.
  - (4) — An Application Review Board shall review all applications received from the Office of the City Clerk requesting consideration for appointment as a Youth Advisory Council Member. All youth interested in serving as a Youth Advisory Council member must be a resident of the City of South Bend and must represent the rich diversity of the community.
  - (5) — All Youth Advisory Council applications must be submitted by the end of September each year.
  - (6) — The Residential Neighborhoods Committee Chairperson may appoint youth mentors of college and/or graduate school age who will provide assistance and guidance throughout the year to the Youth Advisory Council Members. The youth mentors shall interface with the legislative, administrative and educational liaisons identified in Section 2-12.1.5.

(Ord. No. 9414-03, § I; Ord. No. 9750-07, § I, 4-23-07; Ord. No. 10666-19, § I, 8-26-19)

### **Sec. 2-12.1.3. Officers and terms of office of the Youth Advisory Council.**

- (a) — The Youth Advisory Council shall call an organizational meeting to select a Chairperson, Vice Chairperson and Recording Secretary.
- (b) — The selected recording secretary, shall provide a listing of all Youth Advisory Council members by name, address, telephone number, email address, school, and year of education shall be submitted to the Office of the City Clerk by email for distribution to the Common Council, the city administration, School Superintendents and the Principal of each high school, the Neighborhood Resources Connection.
- (c) — Terms of office of Youth Advisory Council members shall be for one (1) year, with reappointments of the same youth member permitted for one (1) additional year.
- (d) — The Youth Advisory Council shall maintain a record of their meetings. Such meeting minutes shall be submitted to the Office of the City Clerk by email by the elected recording secretary.

(Ord. No. 9414-03, § I; Ord. No. 10666-19, § I, 8-26-19)

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**Sec. 2-12.1.4. Duties of Youth Advisory Council members.**

- (a) — Each Youth Advisory Council Member shall be required to attend meetings of the Youth Advisory Council, with three (3) excused absence permitted each year.
  - (b) — Each Youth Advisory Council Member shall be required to attend not less than two (2) committee meetings of any Standing Committee of the South Bend Common Council, two (2) neighborhood association meetings, and one (1) school board meeting by the end of December of each year.
  - (c) — Each Youth Advisory Council Member shall be required to attend the 2nd Common Council meeting in January where the Mayor presents his or her annual State of the City Address.
  - (d) — Each Youth Advisory Council Member shall participate in the annual "Civic Day" activities occurring in February at the County City Building, and other planned social or political action events.
  - (e) — The Youth Advisory Council may monitor other city boards and commissions for issues related to youth and make recommendations for such boards or commissions consideration when deemed appropriate.
- (Ord. No. 9414-03, § I; Ord. No. 10666-19, § I, 8-26-19)

**Sec. 2-12.1.5. Initiatives, responsibilities and goals to be addressed by members.**

- (a) — The Youth Advisory Council may develop:
  - (1) — Mission Statement;
  - (2) — Committee structure if deemed necessary;
  - (3) — Composite of the youth in the high school or district he or she is representing;
  - (4) — Newsletters and other means of communication with youth in the city;
  - (5) — Grant proposals;
  - (6) — Initiatives and Goals to be addressed, including but not limited to:
    - a. — Leadership opportunities;
    - b. — Civic responsibilities;
    - c. — Arts and Activism;
    - d. — Educational opportunities;
    - e. — Youth perspectives on local issues (health and wellbeing, environmental justice, sustainability, climate control, etc.);
    - f. — Creating a means of formal communication between city officials and youth in our community;
    - g. — Creating a model for youth involvement; and
    - h. — Partnering with local, state, federal, and international organizations which focus on youth involvement and development.
    - i. — Indicators of measuring success.
- (b) — The Youth Advisory Council shall make recommendations to enhance participation of youth throughout the community, to improve communications with school and governmental entities, and to improve employment opportunities for youth in the community.



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- (c) The Youth Advisory Council shall provide an annual report of its activities, initiatives and objectives.
  - (d) The Youth Advisory Council shall address the Common Council under the "Special Business" portion to provide an annual report of its activities, initiatives and objectives.

(Ord. No. 9414-03, § 1; Ord. No. 10666-19, § 1, 8-26-19)

#### **Sec. 2-12.1.6. Liaisons to the Youth Advisory Council.**

- (a) The Residential Neighborhoods Committee Chair shall be the legislative liaison to the Youth Advisory Council and be available for mentoring duties. All Councilmembers are welcome to serve, but the Common Council President and/or Vicechair of the Residential Neighborhoods Committee also strongly encouraged be legislative liaisons to the Youth Advisory Council.
- (b) The City Administration shall designate a point of contact as a liaison to the Youth Advisory Council and be available for programming and mentorship duties.
- (c) The Neighborhood Resources Corporation shall designate a point a contact as a program coordinator to the Youth Advisory Council to be responsible for coordinating programming duties.

(Ord. No. 9414-03, § 1; Ord. No. 10666-19, § 1, 8-26-19)

#### **Secs. 2-12.1.7—2-12.1.10. Reserved.**

### *DIVISION 2. COMMUNITY POLICE REVIEW BOARD<sup>9</sup>*

#### **Sec. 2-12.1.11. Purposes.**

The purposes of the Community Police Review Board are to encourage aggrieved persons to participate in the process, to provide an additional just and efficient means to safely, fairly, impartially, and timely conduct investigations of alleged police misconduct and to reach an independent determination of whether those allegations are well founded applying a preponderance of the evidence standard; to identify and address patterns of alleged police misconduct; and, based on information obtained through such investigations, to make policy recommendations to improve the South Bend Police Department and reduce incidents of alleged police misconduct.

(Ord. No. 10721-20, § 1, 10-5-20)

#### **Sec. 2-12.1.12. Definitions.**

*Chief* means the Chief of the South Bend Police Department.

*City* means the City of South Bend, Indiana.

*Common council* means the South Bend Common Council.

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<sup>9</sup>Editor's note(s)—Ord. No. 10721-20, § 1, adopted Oct. 5, 2020, amended the Code by the addition of Div. 2, §§ 2-12.2.1—2-12.2.11; however, said provisions have been redesignated as Div. 2, §§ 2-12.1.11—2-12.1.21, at the editor's discretion, for purposes of maintaining code format.

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*Complainant* means a person who files a complaint with the Review Office.

*Complaint* means a written complaint properly filed with the Review Office.

*Department* means the South Bend Police Department.

*Director* means the Director of the Review Office.

*Immediate family* means father, mother, son, daughter, sister, or brother.

*Incapacitated person* has the meaning set forth in IC 29-3-1-7.5.

*Mayor* means the Mayor of South Bend, Indiana.

*Member* means a member of the Review Board.

*Officer* means a sworn member of the South Bend Police Department.

*Ordinance* means the Community Police Review Board ordinance.

*Person* means a member of the public, regardless of age, citizenship, residency, or any other characteristic of the complainant.

*Review board* means the Community Police Review Board.

*Review office* means the Community Police Review Office.

(Ord. No. 10721-20, § 1, 10-5-20; Ord. No. 10804-21, § 1, 8-9-21)

### **Sec. 2-12.1.13. Community Police Review Board established; selection process; terms.**

(a) The Review Board is established and shall be composed of nine (9) Members appointed by the Common Council.

(1) All Members shall be current residents of the City of South Bend. No sworn law enforcement officer is eligible to serve as a member of the Review Board. Members shall be selected from nominees submitted by each member of the Common Council, including at large Council members. Nominees may include individuals and representative members of community organizations. No Council Member may nominate more than three (3) candidates for appointment to the Review Board. There shall be at least one (1) Member appointed from each City Councilmanic district.

(2) The initial Review Board shall be composed of three (3) Members appointed to a one (1) year term; three (3) Members appointed to a two (2) year term; and three (3) Members appointed to a three (3) year term.

(3) After the term of each initial Member is completed, the Common Council shall appoint Members with each Member serving a three (3) year term or until their successors are appointed, but for no longer than sixty (60) days beyond the expiration of their term. Each Member may be reappointed but may not be appointed to more than two (2) consecutive terms on the Review Board.

(4) If a Member is unable to complete a term for any reason, a new Member shall be appointed by the Common Council. A new Member shall reside in the same Councilmanic district as the departing Member. Such new Member shall then be eligible to be reappointed for no more than one (1) additional full consecutive term, if the Member has served eighteen (18) months or more of the original term.

(b) All Members shall serve at the pleasure of the Common Council.

(Ord. No. 10721-20, § 1, 10-5-20)



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**Sec. 2-12.1.14. Review Board officers, quorum, attendance, and training.**

- (a) The Members shall select one (1) Member to serve as president of the Review Board.
- (b) Five (5) Members of the Review Board shall constitute a quorum for the purpose of conducting business, and five (5) Members must vote in favor of any item before any action or disposition can be taken.
- (c) All Review Board Members must attend a minimum of seventy five (75) percent of the Review Board meetings. The Common Council may replace any Member who fails to meet this attendance requirement within sixty (60) days of written notice to the Member of failure to meet this attendance standard.
- (d) Before participating in any Review Board investigations, review or other duties of the Review Board, each Member must begin mandatory training. This training includes accompanying an on-duty Officer of the Department for a minimum of twelve (12) hours per year, and for a minimum of four (4) hours per occasion, in order to observe police procedures first-hand. Additionally, all Members are recommended to:
  - (1) Participate in training and assessment pursuant to the Intercultural Development Inventory (TOI) or similar program approved by the Common Council;
  - (2) Have strong community relations experience;
  - (3) Participate in the South Bend Police Department Citizens' Police Academy;
  - (4) Participate in mediation training;
  - (5) Participate in training in best practices in investigations, including a review of video footage of incidents of police misconduct;
  - (6) Participate in conflict resolution training; and
  - (7) Participate in restorative justice training.

(Ord. No. 10721-20, §1, 10-5-20)

**Sec. 2-12.1.15. Review Board duties.**

- (a) The Review Board shall meet as often as necessary to consider all complaints which it deems appropriate to process and review, but no less than bi-monthly. The Review Board shall set rules for its governance and shall establish its procedures for processing complaints and for ensuring notification to Complainants of the status and disposition of their complaints.
- (b) If a majority of the Review Board determines that additional information of a specialized police nature is necessary to process a complaint, the Review Board shall consult with one or more consultants of its choice, subject to appropriations.
- (c) The Review Board shall:
  - (1) Review the allegations of each complaint;
  - (2) If necessary, investigate the allegations of each complaint;
  - (3) Collect, track and report civilian complaints;
  - (4) Suggest revisions to existing, or the addition of new, policies when necessary;
  - (5) Facilitate Community Advisory Group meetings and compile resident feedback;
  - (6) Provide policy suggestions to the Common Council, Mayor, and Board of Public Safety; and

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(7) — Recommend to the appropriate authority the additional investigation of complaints when necessary.  
(Ord. No. 10721-20, § I, 10-5-20)

### **Sec. 2-12.1.16. Establishment of Community Police Review Office.**

- (a) — The Community Police Review Office is hereby established within the jurisdiction of the Mayor's Office. Any Complaint against an Officer of the Department alleging that the Officer used profane or abusive language, intentionally destroyed or damaged real or personal property, exceeded his/her authority as a police officer, used unauthorized force, acted in violation of the Department's rules and regulations or orders, or any other perceived misconduct may be filed with the Review Office. In addition, if a Complainant alleges that intimidation tactics are being used to impede the filing of a Complaint, the Complainant shall report this to the Review Office and a separate Complaint will be filed regarding the new information. Each Complaint shall be filed within sixty (60) days of the alleged misconduct giving rise to the Complaint and shall be in writing. Unless the Complainant specifically requests that the Complaint remain anonymous in accordance with subsection (b) of this section, the Complaint, shall be signed by the Person making the Complaint, who shall verify or affirm under the penalties of perjury that the representations contained therein are true. The Complaint may be filed in person, by e-mail, by facsimile or through the mail. Additionally, Complaints may be filed after the expiration of the sixty (60) daytime period where the Person making the Complaint was an Incapacitated Person during the sixty (60) daytime period or where, upon a showing of good and sufficient cause and upon majority vote of the Review Board, a Person is permitted to belatedly file a Complaint.
- (b) — Anonymous Complaints will be accepted when specifically requested by the Complainant. Anonymous Complaints will be investigated to the extent that sufficient information is provided. However, if the Complainant does not provide contact information, the investigators will be unable to ask follow-up questions that might be needed for a thorough, complete investigation.
- (c) — Any individual personally aggrieved by the act or acts complained of may file a Complaint. A parent or guardian may file a Complaint on behalf of a minor or an incapacitated person. A member of the Immediate Family of a decedent may file a Complaint on behalf of the decedent. The Review Board may, upon a majority vote of its members, initiate a Complaint on behalf of an aggrieved person with that person's written consent.
- (d) — The complaint process shall be accessible to all persons regardless of race, national origin, ancestry, religion, color, sex, sexual orientation, gender identity, age, language, disability, immigration status or United States military service veteran status. No Member of the Review Board or the Review Office will ever request information about a Complainant's or a witness's immigration status.

(Ord. No. 10721-20, § I, 10-5-20; Ord. No. 10804-21, § II, 8-9-21)

### **Sec. 2-12.1.17. Review Office Director; staff.**

- (a) — The Mayor, with the consultation of the Common Council, shall appoint a full-time Director of the Review Office. The Director shall be supervised and be subject to review and evaluation by the Mayor or the Mayor's designee in collaboration with the Review Board and the Common Council. The duties of the Director shall include:
- (1) — Managing the Review Office, including its staff;
  - (2) — Enhancing communications and good will between the police and residents;
  - (3) — Maintaining records, confidential or otherwise, of all Complaints, proceedings thereon, and dispositions.



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- (b) Pursuant to IC 36-4-11-2, the Director shall serve at the pleasure of the Mayor. The Mayor may request the Common Council:
- (1) To review applications and submit no more than three (3) names of candidates to the Mayor for appointment as Director. Under this process, the Common Council shall review all applications for the position of Director initially in an Executive Session, and the submission of candidate names shall be conducted through resolution approved by a majority of the Common Council. (or by Council President); and
  - (2) To provide recommendations for any potential discipline of the Director, including termination. Recommendations shall be conducted through resolution approved by the majority of the Common Council.
- (c) The Director is authorized to adopt such rules and procedures as the Director may deem appropriate for the proper administration and enforcement of this Review Office. All such rules and procedures shall be adopted only after posting of the rules and procedures proposed to be adopted on the City's website for public review and comment at least thirty (30) days prior to the effective date of such rules and procedures. Upon adoption, the Director shall maintain a copy of the rules and procedures on file in the Director's office.
- (d) Subject to appropriations, the Director shall have the authority to contract with investigators, consultants, and legal counsel, if approved by the City Corporation Legal Counsel pursuant to IC 36-4-9-12, to aid in the investigation of Complaints filed with or processed by the Review Office.
- (e) The Director shall be in regular communication with the Chief and shall make quarterly reports to the Common Council and the Mayor concerning matters of conduct and recurring issues that are processed by the Review Office. The Director shall also provide periodic reports and an annual report.
- (f) The Director shall conduct a yearly audit of the number of Complaints filed and resolution thereof and forward that audit to the Common Council, Mayor and Board of Public Safety.
- (g) Staffing and budget recommendations for the Review Office shall be made by the Director in consultation with the Mayor or the Mayor's designee, the Common Council, and the Review Board.
- (h) On a quarterly basis, the Director shall forward a report of each Review Board Member's attendance and each Member's training, as required by Section 2-12.2.2(d) of the South Bend Municipal Code, to the Common Council and the Mayor.
- (Ord. No. 10721-20, § I, 10-5-20; Ord. No. 10804-21, § III, 8-9-21)

### **Sec. 2-12.1.18. Complaint investigation and hearing procedures.**

- (a) All complaints shall be referred to the Department's Internal Affairs for investigation. An independent investigator of the Review Office shall conduct a concurrent investigation and work in collaboration with Internal Affairs. Department investigations shall be completed with sixty (60) days after a Complaint is referred to Internal Affairs. The Chief may request an extension of time to complete the investigation from the Director, stating the specific reasons therefore.
- (b) After any investigation is returned to the Review Office, the Review Board shall review the investigation and the action taken or recommended by the Chief, if any. If the Review Board does not agree with the action taken or recommended by the Chief, or if the Review Board disagrees with the investigation conducted by the Department, the Review Board will notify the Officer or Officers alleged to have been involved in the complained of incident of the date of the incident. The Review Board may then, by majority vote:
- (1) Order the Director to further investigate the allegations of the Complaint;
  - (2) Conduct an informal administrative hearing on the Complaint; or



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- (3) — Order the Director to engage in a process of informal mediation to attempt to resolve the Complaint.
- (c) — If the Review Board determines to hold a hearing, the Review Office shall give written notice to all parties and witnesses at least fifteen (15) days in advance of the scheduled hearing. All parties shall be informed of the right to have legal counsel, or other representative or advocate, to represent the party at the hearing. All testimony at such hearing shall be recorded and given under oath or under penalty of perjury.
- (d) — Upon the completion of the investigation by the Review Office or after a hearing, the Review Board shall make a disposition regarding the Complaint. The disposition shall be one (1) or more of the following:
- (1) — Not sustained (when there is insufficient evidence to prove the allegation(s) made in the Complaint by a preponderance of the evidence);
  - (2) — Sustained (when there is sufficient evidence to prove the allegation(s) made in the Complaint by the preponderance of the evidence);
  - (3) — Exonerated (when the allegation(s) made in the Complaint are false or not factual, or the conduct complained of was lawful and proper); and/or
  - (4) — Withdrawn (when the Complainant requests that no further action be taken on the case).

If the Review Board determines that an Officer is exonerated because the Complaint is knowingly and intentionally false, the Review Board shall refer the matter to the St. Joseph County Indiana Prosecutor's office for consideration of charges for false reporting or similar crime under IC 35-44.1-2-1 et seq.

The disposition must be made within sixty (60) working days after the Department's investigation, if any, is returned to the Review Office or after the conclusion of the investigation conducted by the Director pursuant to subsection (a) of this section.

- (e) — The findings and disposition of the Review Board shall be communicated to the Common Council, the Mayor, the Board of Public Safety, and the Complainant in writing within ten (10) days of the date of the disposition.
- (f) — Any disciplinary action taken against an Officer due to his or her involvement in an incident which resulted in a Complaint being filed with the Review Office shall be communicated to the Common Council and the Review Board for disclosure to the Complainant and the public within ten (10) days after the disciplinary action is imposed.
- (g) — If no disciplinary action is taken, the Review Board shall be informed of that fact with an explanation of the reasons for that determination in a written response within ten (10) days after the determination is made. The written response shall be communicated to the Common Council and the Review Board for disclosure to the Complainant and the public within ten (10) days.

(Ord. No. 10721-20, §1, 10-5-20)

### **Sec. 2-12.1.19. Subpoena requests.**

For purposes of conducting an investigation or hearing, the Review Board may, by a majority vote of all Members, request the Common Council to subpoena witnesses and documents, except those documents relating to ongoing criminal investigations, including such public records as are deemed subject to disclosure under the provisions of IC 5-14-3-3 et seq.

Any such request will be discussed by the Common Council in Executive Session pursuant to IC 5-14-1.5-6.1(b)(6). At the next subsequent full Common Council meeting following the Executive Session, special or regular, any Common Council member, under the "Special Business" Agenda item, may make a motion for the Common Council to continue the Review Board's investigation by issuing the requested subpoenas. If no such motion is made, or if such a motion is defeated, the request for subpoenas shall be deemed denied but the Review Board's investigation may otherwise continue. If such motion is made and passed by a majority vote of the entire Common



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Council, the requested subpoenas will be issued pursuant to IC 36-4-6-21 and South Bend Municipal Code Section 2-2(i). This power to issue subpoenas shall be enforceable by the St. Joseph County Circuit or Superior Court pursuant to IC 36-4-6-21.

(Ord. No. 10721-20, §1, 10-5-20)

**~~Sec. 2-12.1.20. Access to Community Police Review Board by Officers; participation of Officers.~~**

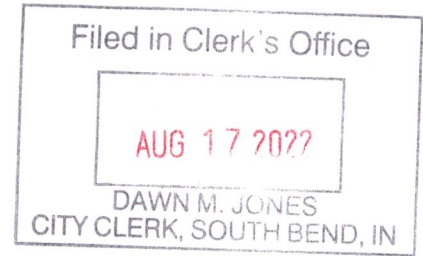
- ~~(a) Any Officer subpoenaed to appear before the Review Board may be represented by legal counsel.~~
- ~~(b) Officers shall have access to the Complaint process to defend their actions, both during the investigatory and hearing processes.~~
- ~~(c) Officers shall be required to cooperate with the Review Board and Review Office as an investigation is conducted, subject to their Federal and State constitutional rights.~~

(Ord. No. 10721-20, §1, 10-5-20)

**~~Sec. 2-12.1.21. Severability.~~**

~~If any section, subsection, paragraph, sentence, clause, or phrase in this division is judicially determined to be invalid or ineffective by any court of competent jurisdiction, such determination shall not affect the validity or effectiveness of the remaining portions of this division.~~

(Ord. No. 10721-20, §1, 10-5-20)



## CITY OF SOUTH BEND DEPARTMENT OF PUBLIC WORKS

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August 17, 2022

Sharon McBride  
South Bend Common Council  
County City Building  
227 W. Jefferson Blvd, 400  
South Bend, IN 46601

Re: Amendments to various sections of Chapter 17 of South Bend Municipal Code

Dear Council President:

A few years ago, the Common Council authorized a Low Income Customer Assistance Program. This Program was implemented during the COVID-19 pandemic while the City of South Bend also instituted a moratorium on utility bill collections. In late 2021, this program was revised to provide greater assistance, and was generally renamed Utility Assistance Program.

As the public health emergency has ceased, the City will continue with standard processes for collecting late payments on utility bills, up to and including disconnection of service after bill has become delinquent. These amendments are intended to recognize that customers who meet low income guidelines may have more difficulty paying their bill, and that those customers would benefit from certain modification to existing policies.

The following amendments are proposed:

- Update references to Low Income Customer Assistance Program (LICAP) to Utility Assistance Program (UAP)
- A process for enrolling renters into the UAP when the account is in the name of the property owner.
- Exemption from late penalties (fees) for water, sewer, and stormwater charges when customers are enrolled in UAP.
- Customers enrolled in UAP will not lose the benefits of the Water Service Line Repair Program, or Sewer Service Line Repair Program when their account is delinquent.

EXCELLENCE | ACCOUNTABILITY | INNOVATION | INCLUSION | EMPOWERMENT

1316 County-City Building | 227 W. Jefferson Blvd. | South Bend, Indiana 46601 | p 574.235.9251 | f 574.235.9171 | [www.southbendin.gov](http://www.southbendin.gov)



CITY OF SOUTH BEND | DEPARTMENT OF PUBLIC WORKS

Additionally, the amendment to the Water Service Line Repair program will revise the program to include coverage of separate irrigation lines owned by customers. These lines are currently excluded from this program. When an irrigation service line leaks under the street, damage to the street and other public and private property can occur. Customers are often not prepared for the expense of fixing these leaks. Customers who own separate irrigation service lines will be assessed the same monthly fee for Service Line Repair (\$2.10 per month), and the program will cover all repairs that occur between the public water main and the customers property. This will result in more timely repairs, minimize damage to public streets, and not require the customer to make a costly repair.

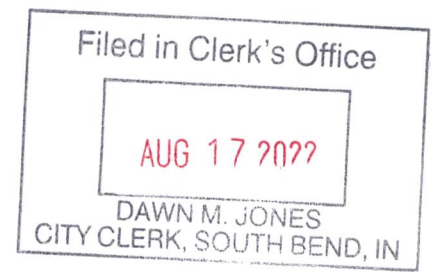
I will present this ordinance to the Council and will be accompanied by an attorney in the City's Department of Law.

Thank you for your assistance. We hope that the Council will consider this ordinance favorably.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Horvath", with a long horizontal flourish extending to the right.

Eric Horvath, Director of Public Works



# CITY OF SOUTH BEND

## DEPARTMENT OF PUBLIC WORKS

---

August 17, 2022

South Bend Common Council  
County City Building  
227 W. Jefferson Blvd, 400  
South Bend, IN 46601

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The amendments will accomplish the following:

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- A process for enrolling renters into the UAP when the account is in the name of the property owner.
- Exemption from late penalties (fees) for water, sewer, and stormwater charges when customers who are enrolled in UAP.

EXCELLENCE | ACCOUNTABILITY | INNOVATION | INCLUSION | EMPOWERMENT

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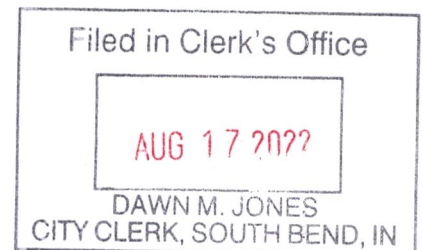
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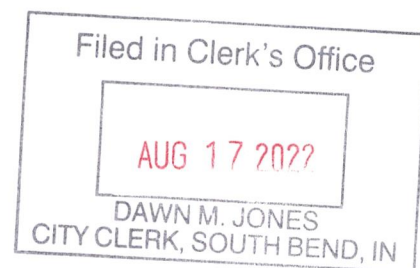
Sincerely,

Eric Horvath, Director of Public Works



Bill No. 43-22

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



**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING VARIOUS ARTICLES AND SECTIONS OF CHAPTER 17 OF THE SOUTH BEND MUNICIPAL CODE TO ADDRESS LATE FEES FOR CITY UTILITY CUSTOMERS AND RENAMING THE “LOW-INCOME CUSTOMER ASSISTANCE PROGRAM” (LICAP) AS THE “UTILITY ASSISTANCE PROGRAM” (UAP)**

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**STATEMENT OF PURPOSE AND INTENT**

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The City of South Bend owns and operates a water and sewer utility, and separate charges are imposed on the City’s utility customers whose account payments are delinquent. These charges are fixed in several Sections within Articles of Chapter 17 of the South Bend Municipal Code. The City also established in 2019 what was then titled a “Low-Income Customer Assistance Program” (LICAP) for qualified City utility customers based on their income. (Ordinance 10688-19 passed on October 28, 2019), and as amended by Ord. No. 10797-21, passed on August 9, 2021).

Safe water, sewer, and their related services are essential to health and welfare of City residents. Low-income persons are acutely vulnerable to loss of utility service for reasons beyond their control which consequently endangers the health and welfare of the City’s young, elderly, and disabled persons. To reduce risk of loss of utility service to lower income City utility customers, this ordinance enacts changes within Chapter 17 of the South Bend Municipal Code. The changes include removal of penalties and other adverse consequences of non-payment or delinquency of utility bills by persons enrolled in what was previously known as the “Low-Income Customer Assistance Program” (LICAP) at Article 15 of Chapter 17. This ordinance further renames that program as the “Utility Assistance Program” (UAP).

Amending various Sections of the South Bend Municipal Code at Chapter 17 as set out in this ordinance is in the best interest of the City and its residents.

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

**SECTION I** . Chapter 17, Article 15, of the Municipal Code of the City of South Bend, Indiana shall be amended to read in its entirety as follows:

***ARTICLE 15. ~~LOW-INCOME~~ UTILITY ASSISTANCE PROGRAM—ESTABLISHED***



**Sec. 17-130. Findings and purpose.**

In order to address the public health obligation to provide affordable water and sewer services to low-income customers, while still maintaining sustainable finances, the City of South Bend ~~will~~ implemented in 2019 a rate-payer funded program to assist low-income customers of the City utilities originally known as the Low Income Customer Assistance Program (LICAP). Since 2019, within the Public Works Department and throughout the City, the program has been referred to simply as the Utility Assistance Program (UAP) which shall be its official name. A charge shall be assessed against every City of South Bend sewer rate-payer in order to provide a ~~LICAP~~ UAP credit for qualifying low-income non-industrial sewer customers. Qualification and verification shall be performed by members of the City's staff or local community action partners, as determined by the City. The credit shall be applied for a period of twelve (12) months with annual renewal possible. This charge is deemed reasonable and necessary for its intended purpose. The rates established in this Article shall remain effective until replaced, amended, or repealed by the South Bend Common Council.

(Ord. No. 10688-19 , § I, 10-28-19; Ord. No. 10797-21 , § V, 8-9-21)

**Sec. 17-131. Definitions.**

Unless otherwise defined in this Ordinance, the terms and phrases shall be defined as follows:

- (a) *City* means the City of South Bend, Indiana.
- (b) *Customer* means the owner or tenant of a single-unit residential property or a multi-unit residential property up to four (4) units, in whose name the bill for wastewater charges for such property is issued by the City; or where the tenant attests they occupy the Residential Property as a primary residence and have made the application with the consent of their landlord
- (c) ~~*Low-Income Customer Utility Assistance Program Credit*~~ means the credit for wastewater charges provided under Section 17-133 of this Article.
- (d) ~~*Eligible Low-Income Customer Utility Assistance Program Customer*~~ means an eligible customer as defined in Section 17-134 of this Article.
- (e) *Multi-Unit Residential Property* means property used only for human residency which consists of no more than four (4) dwelling units with each one occupied as a primary residence by a single person or single family.
- (f) *Single-Unit Residential Property* means property used only for human residency which consists of a single dwelling unit occupied as a primary residence by a single person or single family.
- (g) *UAP* means the Utility Assistance Program established by this Article.
- (g) (h) *Wastewater Charges* means the wastewater user charges established by City Ordinance for use of its wastewater system.

(Ord. No. 10688-19 , § I, 10-28-19; Ord. No. 10797-21 , § V, 8-9-21)

**Sec. 17-132. Sewer charge.**

The sewer charge fee is set for the purpose of offsetting the LIC UAP Credit. The sewer charge fee shall be One Dollar and Seventy-Five Cents (\$1.75) per Month charged through December 31, 2022, One Dollar and Eighty-Nine Centers (\$1.89) per month charged from January 1, 2023 through December 31, 2023, Two Dollars and Three Cents (\$2.03) per month charged from January 1, 2024 through December 31, 2024, and Two Dollars and Eighteen Cents (\$2.18) per month charged from January 1, 2025 and beyond per wastewater Customer account. This charge will be reviewed on the same basis as all other rates and charges in this Chapter.

(Ord. No. 10688-19 , § I, 10-28-19; Ord. No. 10797-21 , § V, 8-9-21)

**Sec. 17-133. ~~Low-Income Customer~~ Utility Assistance Program (UAP) Credit.**

A LIC UAP credit shall be available to Eligible Customers of the City who are billed for wastewater charges as provided for in this Ordinance effective January 1, 2022. ~~The current LIC AP credits shall remain in effect until the new rates are established on January 1, 2022.~~ The amount of such credit will be applied for the applicable billing cycle as follows:

<b>Income Eligibility Cutoffs as a Percentage of Area Median Income (AMI)*</b>	<b>Credit Amount</b>
>60%—80% of AMI	\$8.00
>45%—60% of AMI	\$14.25
>30%—45% of AMI	\$19.25
>0%—30% of AMI	\$25.50

\* Area Median Income means the median income for the South Bend—Mishawaka IN HUD Metro Area as adjusted for family size and as determined annually by the United States Department of Housing and Urban Development (HUD).

(Ord. No. 10688-19 , § I, 10-28-19; Ord. No. 10797-21 , § V, 8-9-21)

**Sec. 17-134. Eligible customer.**

In order for a Customer to be eligible, the Customer must satisfy each of the following criteria:

- (a) Must own or occupy as a primary residence a Single-Unit Residential Property or a Multi-Unit Residential Property.
- (b) The bill for wastewater charges must either be in applicant’s name or the tenant must attest that they occupy the Residential Property as a primary residence and have made the application with the consent of their landlord.
- (b) (c) Customer's annual household income must be at or below the levels established in above Section 17-133.

(Ord. No. 10688-19 , § I, 10-28-19; Ord. No. 10797-21 , § V, 8-9-21)



**Sec. 17-135. Application procedure.**

- (a) A Customer seeking assistance from the City's ~~LIC~~ UAP must complete an application and return the application, along with any requested supporting documentation, to the City. ~~of South Bend.~~
- (b) Eligible Customers will receive the ~~LIC~~ UAP Credit for a period of twelve (12) months.
- (c) In order to re-enroll in ~~LIC~~ UAP, the Customer must annually complete either an attestation that their address, household income, and number of household members have not changed or a new application in the event that an applicant's address, household income, or number of household members have changed.

( Ord. No. 10797-21 , § V, 8-9-21)

**Sec. 17-136. Rules and Regulations and Termination of Program.**

The City shall promulgate such rules, regulations, written policy, forms and other documentation as deemed necessary to effectuate the ~~LIC~~ UAP. The City reserves the right to discontinue the ~~LIC~~ UAP upon a determination that the costs of the Program have become prohibitive or the City otherwise determines that it is in the best interest of the City to discontinue the ~~LIC~~ UAP.

(Ord. No. 10688-19 , § I, 10-28-19; Ord. No. 10797-21 , § V, 8-9-21)Editor's note(s)—Ord. No 10797-21, § V, adopted Aug. 9, 2021, repealed the former § 17-136 and renumbered § 17-137 as § 17-136. The former § 17-136 pertained to review of denial of eligibility and derived from Ord. No. 10688-19 , § I, adopted Oct. 28, 2019.

**Secs. 17-137—17-139 Reserved.**

**SECTION II** . Chapter 17, Division 4, Section 17-24 of the Municipal Code of the City of South Bend, Indiana shall be amended to read in its entirety as follows:

**DIVISION 4. SCHEDULE OF RATES AND CHARGES**

**Sec. 17-24.- Preparation and collection of charges.**

- (a) Such rates and charges shall be prepared, billed and collected by the City in the manner provided by law and ordinance.
- (b) The rates and charges for all users shall be prepared and billed monthly. Annually, each user shall be notified of the portion of the total billing charged for operation, maintenance and replacement for that user during the preceding year.
- (c) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way

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relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the City for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which such records are kept and during the hours that such office is open for business.

(d) As is provided by statute, ~~all~~ rates and charges not paid within five (5) days of the due date as stated in such bill are hereby declared to be delinquent and a penalty of ten (10) percent of the amount of the rates and charges shall thereupon attach thereto. Customers enrolled in the Utility Assistance Program will not be assessed a penalty for any charges that are not paid on time, and late payment penalties may be waived for customers enrolled in certain deferred payment plans.

(Ord. No. 7942-88, § 1)

**SECTION III** . Chapter 17, Article 4, Section 17-46 of the Municipal Code of the City of South Bend, Indiana shall be amended to read in its entirety as follows:

#### **ARTICLE 4 WATER RATES AND CHARGES**

Sec. 17-46.- Collection or deferred payment charge.

~~All bills~~ Bills for water services, not paid within five (5) days from the due date thereof, as stated in such bills, shall be subject to a collection or deferred payment charge of ten percent (10%) of the first three dollars (\$3.00) of the water charge and three percent (3%) on any amount in excess of three dollars (\$3.00) of the water charge. All bills for water services which are turned over to a collection agency shall be subject to a collection charge equal to twenty percent (20%) of the unpaid bill. Customers enrolled in the Utility Assistance Program will not be assessed penalties for bills that are not paid on time, and late payment penalties may be waived for customers enrolled in certain deferred payment plans.

**SECTION IV** . Chapter 17, Article 6, Sections 17-51 and 17-52 of the Municipal Code of the City of South Bend, Indiana shall be amended to read in its entirety as follows:

#### **ARTICLE 6. -WATER SERVICE FUND AND CHARGES**

**Sec. 17-51. -Limitation on use of funds.**

Water sprinkler service shall ~~not~~ be insured under this ~~article~~-Article; however, sprinkler coverage hereunder shall only extend from the water main to the property line. ~~if~~ If the domestic service line is less than two (2) inches and has a lawn-sprinkler connection tee in it, said domestic service line and the tee will be insured, but not beyond the tee nor any costs of repair to the lawn-sprinkler system proper.

**Sec. 17-52. -Use of funds when accounts delinquent prohibited.**



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The insurance for repair and/or replacement shall not be in force on any account if the charge for such insurance has not been paid for four (4) consecutive months. The City reserves the right to waive this provision in the event of disasters, emergencies, or similar public health concerns. For accounts enrolled in the Utility Assistance Program, the insurance for repair or replacement shall remain in effect despite late payments for any period. Accounts enrolled in certain deferred payment plans may also be entitled to retain insurance for repair or replacement despite late payments.

**SECTION V.** Chapter 17, Article 7, Section 17-63 of the Municipal Code of the City of South Bend, Indiana shall be amended to read in its entirety as follows:

**ARTICLE 7.- SEWER SERVICE FUND AND CHARGES**

**Sec. 17-63.- Use of funds when accounts delinquent prohibited—exceptions.**

The insurance of repair and/or replacement shall not be in force on any account if the charge for such insurance is delinquent for one hundred twenty (120) days. The City reserves the right to waive this provision in the event of disasters, emergencies or similar public health concerns. For accounts enrolled in the Utility Assistance Program, the insurance for repair or replacement shall remain in effect despite late payments for any period. Accounts enrolled in certain deferred payment plans may also be entitled to retain insurance for repair or replacement despite delinquency.

**SECTION VI.** Chapter 17, Article 14, Section 17-129 shall be amended to read in its entirety as follows:

**Sec. 17-129. - Collection of storm water user fees.**

(a) The collection of the storm water user fees authorized by this ~~Article~~ article shall be effectuated by a monthly charge on a bill to be sent to the affected property owner. The City may designate any agency within the Department of Public Works to handle billing for the storm water user fees assessed under this ~~article~~ Article.

(b) If the storm water user fee is not paid when due, a late payment penalty shall be charged and assessed by the designated South Bend billing agency consistent with Indiana ~~Law~~ law for storm water utilities (IC 8-1.5-5-29, 8-1.5-5-30) at the rate of ten percent (10%) of the unpaid bill.

(c) If storm water user fees and penalties are not paid when due, they shall be collected by South Bend in the same manner that other delinquent fees and penalties are charged and assessed consistent with Indiana ~~Law~~ law.

(d) Late penalties shall not be assessed against customers who are currently enrolled in the Utility Assistance Program, and may be waived on balances of customers in certain deferred payment plans.

**SECTION VII.** The paragraphs, sentences and words of this Ordinance are severable, and if any portion hereof is declared unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such declaration shall not affect the remaining portions of this Ordinance.

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**SECTION VIII.** This Ordinance shall take effect upon its passage by this Common Council approval by the Mayor, any publication required by law, and any approval required by the Indiana Utility Regulatory Commission (IURC).

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Sharon McBride, President,  
Common Council of the City of South Bend

ATTEST:

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Dawn M. Jones, 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 for his approval on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_\_.m.

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Dawn M. Jones, City Clerk  
Office of the City Clerk

Having examined the foregoing Ordinance, I do now, as the Mayor of the City of South Bend, approve said Ordinance and return the same to the Clerk of the City of South Bend this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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James Mueller, Mayor  
City of South Bend, Indiana