



SOUTH BEND COMMON COUNCIL

MEETING AGENDA

Tuesday, March 29, 2016
7:00 P.M.

1. **INVOCATION**
2. **PLEDGE TO THE FLAG**
3. **ROLL CALL**
4. **REPORT FROM THE SUB-COMMITTEE ON MINUTES**
5. **SPECIAL BUSINESS**
6. **REPORTS FROM CITY OFFICES**
7. **COMMITTEE OF THE WHOLE** **TIME:** _____
BILL NO.
[11-16](#) PUBLIC HEARING ON AN ORDINANCE OF THE SOUTH BEND COMMON COUNCIL AMENDING CHAPTER 14 OF THE *SOUTH BEND MUNICIPAL CODE* BY ESTABLISHING NEW ARTICLE 13 ENTITLED SMOKE FREE AIR REGULATIONS FOR WORKPLACES AND PUBLIC PLACES
8. **BILLS ON THIRD READING** **TIME:** _____
BILL NO.
[11-16](#) THIRD READING ON AN ORDINANCE OF THE SOUTH BEND COMMON COUNCIL AMENDING CHAPTER 14 OF THE *SOUTH BEND MUNICIPAL CODE* BY ESTABLISHING NEW ARTICLE 13 ENTITLED SMOKE FREE AIR REGULATIONS FOR WORKPLACES AND PUBLIC PLACES
9. **RESOLUTIONS**
BILL NO.
[16-30](#) A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA CORRECTING SCRIVENER'S ERROR IN RESOLUTION NO. 4537-16 APPROVING THE DESIGNATION OF CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS: 211 WEST WASHINGTON STREET AS AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A TEN (10) YEAR REAL PROPERTY TAX ABATEMENT FOR:

RETAIL PROPERTY LOCATED AT THE TOWER AT
WASHINGTON SQUARE LLC

[16-31](#)

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS INTERSECTION OF MAYFLOWER RD AND WESTERN AVENUE SOUTH BEND, IN 46619 AS AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A SIX (6) YEAR REAL PROPERTY TAX ABATEMENT FOR COUNTY DEVELOPMENT, LLC

10. BILLS ON FIRST READING

BILL NO.

[18-16](#)

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 2, ARTICLE 1 OF THE *SOUTH BEND MUNICIPAL CODE* BY DELETING SECTIONS 2-9.1 ADDRESSING POLICIES AND PROCEDURES GOVERNING CITY-OWNED TECHNOLOGIES, FACEBOOK STANDARDS, SOCIAL MEDIA AND SOCIAL NETWORKING POLICIES AND PROCEDURES

[19-16](#)

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, TO ADDRESS BUSKERS AND SIDEWALK PERFORMERS BY REPEALING CHAPTER 4, ARTICLE 4, SECTION 4-21 OF THE SOUTH BEND MUNICIPAL CODE, RE-CODIFYING AND AMENDING IT WITHIN A NEW ARTICLE 13 OF CHAPTER 14, NEW SECTIONS 14-123 THROUGH 14-126 OF THE MUNICIPAL CODE, AND FURTHER AMENDING CHAPTER 13, ARTICLE 12, SECTION 13-26 CONCERNING SOLICITATIONS

11. UNFINISHED BUSINESS

12. NEW BUSINESS

13. PRIVILEGE OF THE FLOOR

14. ADJOURNMENT

TIME: _____

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

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



OFFICE OF THE CITY CLERK

KAREEMAH FOWLER, CITY CLERK

MEMORANDUM

TO: MEMBERS OF THE COMMON COUNCIL
FROM: KAREEMAH FOWLER, CITY CLERK
DATE: MARCH 24, 2016
SUBJECT: COMMITTEE MEETING NOTICE

The following Common Council Committee Meetings have been scheduled for **TUESDAY**
MARCH 29, 2016:

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

3:30 P.M. **COMMUNITY INVESTMENT** GAVIN FERLIC, CHAIRPERSON
1. [Bill No. 16-30](#)- Correcting Scrivener's Error in Res. No. 4537-16: Retail Property at Washington Square, LLC
2. [Bill No. 16-31](#)- Designating Real Property Tax Abatement, County Development, LLC

3:40 P.M. **HEALTH & PUBLIC SAFETY** JOHN VOORDE, CHAIRPERSON
1. [Bill No. 11-16](#)- Smoke Free Air Standards

4:40 P.M. **COMMUNITY RELATIONS** REGINA WILLIAMS PRESTON, CHAIRPERSON
1. Kick-Off Meeting

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

INFORMAL MEETING OF THE COMMON COUNCIL TIM SCOTT, COUNCIL PRESIDENT

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

cc: Mayor Pete Buttigieg
Committee Meeting List
News Media

455 County-City Building • 227 W. Jefferson Boulevard • South Bend, Indiana 46601
Phone 574-235-9221 • Fax 574-235-9173 • TDD 574-235-5567 • www.SouthBendIN.gov

JENNIFER M. COFFMAN
CHIEF DEPUTY
CHIEF OF STAFF

ALKEYNA M. ALDRIDGE
DEPUTY CLERK
DIRECTOR OF POLICY

EMILY SEXTON
ORDINANCE VIOLATION CLERK

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



2016 COMMON COUNCIL STANDING COMMITTEES (Rev. 01-6-16)

COMMUNITY INVESTMENT COMMITTEE

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

Gavin Ferlic, Chairperson	Oliver Davis, Member
Regina Williams-Preston, Vice-Chairperson	Randy Kelly, Member

COMMUNITY RELATIONS COMMITTEE

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

Regina Williams-Preston, Chairperson	Gavin Ferlic, Member
Randy Kelly, Vice-Chairperson	Karen White, Member

COUNCIL RULES COMMITTEE

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

Tim Scott, Member	Dr. David Varner, Member
Jo Broden, Member	Karen White

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.

John Voorde, Chairperson	Oliver Davis, Member
Karen L. White, Vice-Chairperson	Jo Broden, Member

INFORMATION AND TECHNOLOGY COMMITTEE

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

Tim Scott, Chairperson	Dave Varner, Member
Gavin Ferlic, Vice-Chairperson	Karen White, Member

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

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

Randy Kelly, Chairperson	Oliver Davis, Member
Dr. Dave Varner, Vice-Chairperson	John Voorde, Member



2016 COMMON COUNCIL STANDING COMMITTEES (Rev. 01-6-16)

PERSONNEL AND FINANCE COMMITTEE

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

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

Regina Williams-Preston, Member
John Voorde, Member

PUBLIC WORKS AND PROPERTY VACATION COMMITTEE

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

Jo Broden, Chairperson
John Voorde, Vice-Chairperson

Randy Kelly, Member
Gavin Ferlic, Member

RESIDENTIAL NEIGHBORHOODS COMMITTEE

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

Karen White, Chairperson
Jo Broden, Vice-Chairperson

Regina Williams-Preston, Member
John Voorde, Member

UTILITIES COMMITTEE

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

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

Randy Kelly, Member
Regina Williams-Preston, Member

ZONING AND ANNEXATION COMMITTEE

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

Oliver Davis, Chairperson
John Voorde, Vice-Chairperson

Gavin Ferlic, Member
Jo Broden, Member

SUB-COMMITTEE ON MINUTES

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

Tim Scott
Dr. David Varner



2016 COMMON COUNCIL STANDING COMMITTEES (Rev.01-6-16)

TIM SCOTT, 1ST District Council Member

PRESIDENT

Information and Technology, Chairperson

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

REGINA WILLIAMS-PRESTON 2nd District Council Member

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

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

RANDY KELLY, 3rd District Council Member

PARC Committee, Chairperson

Community Relations Committee, Vice Chairperson

Community Investment Committee, Member
Public Works & Property Vacation, Member
Utilities Committee, Member

JO BRODEN, 4TH District Council Member

Public Works & Property Vacation, Chairperson

Residential Neighborhood Committee, Vice-Chairperson

Council Rules Committee, Member
Health & Public Safety Committee, Member
Zoning & Annexation Committee, Member

DR. DAVID VARNER, 5TH District Council Member

Utilities Committee, Chairperson

PARC Committee, Vice-Chairperson

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

OLIVER DAVIS, 6TH District Council Member

Zoning & Annexation Committee, Chairperson

Utilities Committee, Vice-Chairperson

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

GAVIN FERLIC, AT LARGE Council Member

Chairperson, Committee of the Whole

Community Investment Committee, Chairperson

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

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

KAREN L. WHITE, AT LARGE Council Member

Residential Neighborhood Committee, Chairperson

Personnel & Finance Committee, Chairperson

Health & Public Safety Committee, Vice-Chairperson

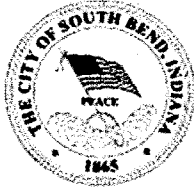
Community Relations Committee, Member
Information & Technology Committee, Member
Council Rules Committee, Member

JOHN VOORDE, AT LARGE Council Member

Health & Public Safety Committee, Chairperson

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

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



The South Bend Common Council

4th Floor County-City Building
227 West Jefferson Boulevard
South Bend, Indiana 46601-1830

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March 9, 2016

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

Re: Proposed Smoke Free Air Standards for Workplaces/Public Places

Dear Council Members:

We are introducing the attached proposed ordinance which would establish smoke free air standards for workplaces and public places in the City of South Bend. The Indiana General Assembly granted local governments the authority to enact such local regulations in Public Law 141-2012, which has been in effect since July 1, 2012.

We request that this proposed ordinance be referred to the Council's Health and Public Safety Committee, so that meaningful discussions may take place on regulations aimed at protecting the public health and safety in workplaces and public places throughout our community. Thank you.

Most sincerely,

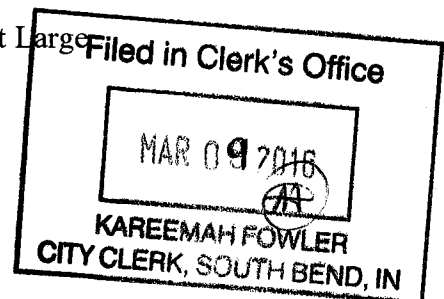
Gavin Ferlic
Council Member at Large

Randy Kelly
3rd District Council Member

Jo Broden
4th District Council Member

John Voorde
Council Member at Large

Attachment



BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE SOUTH BEND COMMON COUNCIL AMENDING CHAPTER 14 OF THE *SOUTH BEND MUNICIPAL CODE* BY ESTABLISHING NEW ARTICLE 13 ENTITLED SMOKE FREE AIR REGULATIONS FOR WORKPLACES AND PUBLIC PLACES

STATEMENT OF PURPOSE AND INTENT

The 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, has concluded that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smoke free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smoke free policies and laws do not have an adverse economic impact on the hospitality industry. (U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.)

According to the 2010 U.S. Surgeon General's Report, *How Tobacco Smoke Causes Disease*, even occasional exposure to secondhand smoke is harmful and low levels of exposure to secondhand tobacco smoke lead to a rapid and sharp increase in dysfunction and inflammation of the lining of the blood vessels, which are implicated in heart attacks and stroke. (U.S. Department of Health and Human Services, *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2010.)

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of approximately 53,000 Americans annually. (National Cancer Institute (NCI), "Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency. Smoking and Tobacco Control Monograph 10," Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI), August 1999.)

The Public Health Service's National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen. (Environmental Health Information Service (EHIS), "Environmental tobacco smoke: first listed in the Ninth Report on Carcinogens," U.S. Department of Health and Human Services (DHHS), Public Health Service, NTP, 2000; reaffirmed by the NTP in subsequent reports on carcinogens, 2003, 2005.)

There is indisputable evidence that implementing 100% smoke-free environments is the only effective way to protect the population from the harmful effects of exposure to secondhand smoke. (World Health Organization (WHO), "Protection from exposure to secondhand smoke: policy recommendations," World Health Organization (WHO), 2007.)

In reviewing 11 studies concluding that communities see an immediate reduction in heart attack admissions after the implementation of comprehensive smoke free laws, the Institute of Medicine of the National Academies concluded that data consistently demonstrate that secondhand smoke exposure increases the risk of coronary heart disease and heart attacks and that smoke free laws reduce heart attacks. (Institute of Medicine (IOM) of the National Academies, Board on Population Health and Public Health Practice, Committee on Secondhand Smoke Exposure and Acute Coronary Events, "Secondhand smoke exposure and cardiovascular effects: making sense of the evidence," Washington, DC: National Academies Press, October 2009.)

A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function. (Pitsavos, C.; Panagiotakos, D.B.; Chrysohoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.; Toutouzas, P., "Association between exposure to environmental tobacco smoke and the development of acute coronary syndromes: the CARDIO2000 case-control study," Tobacco Control 11(3): 220-225, September 2002.)

Studies measuring cotinine (metabolized nicotine) and NNAL (metabolized nitrosamine NNK, a tobacco-specific carcinogen linked to lung cancer) in hospitality workers find dramatic reductions in the levels of these biomarkers after a smoke free law takes effect. Average cotinine levels of New York City restaurant and bar workers decreased by 85% after the city's smoke free law went into effect. ([In.a.], "The State of Smoke-Free New York City: A One Year Review," New York City Department of Finance, New York City Department of Health & Mental Hygiene, New York City Department of Small Business Services, New York City Economic Development Corporation, March 2004).

After the implementation of Ontario, Canada's Smoke free Indoor Air Law, levels of NNAL were reduced by 52% in nonsmoking casino employees and cotinine levels fell by 98%. (Geoffrey T. Fong, et. al., "The Impact of the Smoke-Free Ontario Act on Air Quality and Biomarkers of Exposure in Casinos: A Quasi-Experimental Study," Ontario Tobacco Control Conference, Niagara Falls, Ontario, December 2, 2006.)

Following a Health Hazard Evaluation of Las Vegas casino employees' secondhand smoke exposure in the workplace, which included indoor air quality tests and biomarker assessments, the National Institute of Occupational Safety & Health (NIOSH) concluded that the casino employees are exposed to dangerous levels of secondhand smoke at work and that their bodies absorb high levels of tobacco-specific chemicals NNK and cotinine during work shifts. NIOSH also concluded that the "best means of eliminating workplace exposure to [secondhand smoke] is to ban all smoking in the casinos." (Health hazard evaluation report: environmental and biological assessment of environmental tobacco smoke exposure among casino dealers, Las Vegas, NV. By Achutan C, West C, Mueller C, Boudreau Y, Mead K. Cincinnati, OH: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, NIOSH HETA No. 2005-0076 and 2005-0201-3080, May 2009.)

Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. (California Environmental Protection Agency (Cal EPA), "Health effects of exposure to environmental tobacco smoke", Tobacco Control 6(4): 346-353, Winter, 1997.) The Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability. (Daynard, R.A., "Environmental tobacco smoke and the Americans with Disabilities Act," Nonsmokers' Voice 15(1): 8-9.)

The U.S. Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking. (Pechacek, Terry F.; Babb, Stephen, "Commentary: How acute and reversible are the cardiovascular risks of secondhand smoke?" British Medical Journal 328: 980-983, April 24, 2004.)

Given the fact that there is no safe level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smokefree environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smokefree in their entirety. (Samet, J.; Bohanon, Jr., H.R.; Coultas, D.B.; Houston, T.P.; Persily, A.K.; Schoen, L.J.; Spengler, J.; Callaway, C.A., "ASHRAE position document on environmental tobacco smoke," American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), 2005.)

During periods of active smoking, peak and average outdoor tobacco smoke (OTS) levels measured in outdoor cafes and restaurant and bar patios near smoker's rival indoor tobacco smoke concentrations. (Klepeis, N.; Ott, W.R.; Switzer, P., "Real-time measurement of outdoor tobacco smoke particles," Journal of the Air & Waste Management Association 57: 522-534, 2007.)

Nonsmokers who spend six-hour periods in outdoor smoking sections of bars and restaurants experience a significant increase in levels of cotinine when compared to the cotinine levels in a smoke free outdoor area. (Hall, J.C.; Bernert, J.T.; Hall, D.B.; St Helen, G.; Kudon, L.H.; Naeher, L.P., "Assessment of exposure to secondhand smoke at outdoor bars and family restaurants in Athens, Georgia, using salivary cotinine," Journal of Occupational and Environmental Hygiene 6(11): 698-704, November 2009.)

Residual tobacco contamination, or "thirdhand smoke," from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings. This residue can linger in spaces long after smoking has ceased and continue to expose people to tobacco toxins. Sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings. Gases can be absorbed into carpets, draperies, and other upholsteries, and then be reemitted (off-gassed) back into the air and recombine to form harmful compounds. (Singer, B.C.; Hodgson, A.T.; Nazaroff, W.W., "Effect of sorption on exposures to organic gases from environmental tobacco smoke (ETS)," Proceedings: Indoor Air 2002, 2002.)

Tobacco residue is noticeably present in dust throughout places where smoking has occurred. (Matt, G.E.; Quintana, P.J.E.; Hovell, M.F.; Bernert, J.T.; Song, S.; Novianti, N.; Juarez, T.; Floro, J.; Gehrman, C.; Garcia, M.; Larson, S., "Households contaminated by environmental tobacco smoke: sources of infant exposures," *Tobacco Control* 13(1): 29-37, March 2004.)

Given the rapid sorption and persistence of high levels of residual nicotine from tobacco smoke on indoor surfaces, including clothing and human skin, this recently identified process represents an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion. (Sleiman, M.; Gundel, L.A.; Pankow, J.F.; Jacob III, P.; Singer, B.C.; Destailats, H., "Formation of carcinogens indoors by surface-mediated reactions of nicotine with nitrous acid, leading to potential thirdhand smoke hazards," *Proceedings of the National Academy of Sciences of the United States of America (PNAS)* 107(15): 6576-6581, February 8, 2010.)

Unregulated high-tech smoking devices, commonly referred to as electronic cigarettes, or "e-cigarettes," closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system. After testing a number of e-cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA's testing also suggested that "quality control processes used to manufacture these products are inconsistent or non-existent." ([n.a.], "Summary of results: laboratory analysis of electronic cigarettes conducted by FDA," Food and Drug Administration (FDA), July 22, 2009; <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm> Accessed on: October 22, 2009.)

E-cigarettes produce a vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions. During the Summer of 2015, the US Food and Drug Administration held three (3) public workshops to obtain more detailed information on electronic cigarettes and the public health. Currently only e-cigarettes that are marketed for therapeutic purposes are currently regulated by the FDA Center for Drug Evaluation and Research (CDER). The FDA has issued a proposed rule that would extend its authority to cover e-cigarettes, which is to be acted upon in 2016.

The Society of Actuaries has determined that secondhand smoke costs the U.S. economy roughly \$10 billion a year: \$5 billion in estimated medical costs associated with secondhand smoke exposure and \$4.6 billion in lost productivity. (Behan, D.F.; Eriksen, M.P.; Lin, Y., "Economic Effects of Environmental Tobacco Smoke," *Society of Actuaries*, March 31, 2005.)

Numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smoke free. Creation of smoke free workplaces is sound economic policy and provides the maximum level of employee health and safety. (Glantz, S.A. & Smith, L., "The effect of ordinances requiring smokefree restaurants on restaurant sales in the United States." *American Journal of Public Health*, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., "The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health," GPI Atlantic, September 2001.)

Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses. ("The high price of cigarette smoking," Business & Health 15(8), Supplement A: 6-9, August 1997.)

The smoking of tobacco, hookah, marijuana, and the use of electronic cigarettes are forms of air pollution, a positive danger to health, and a material public nuisance.

Accordingly, the Common Council of the City of South Bend, Indiana, finds and declares that the purposes of this ordinance are: (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smoke free air, and to recognize that the need to breathe smoke free air shall have priority over the desire to smoke. This ordinance is believed to be in the best interests of the public health and welfare of the of the City of South Bend, Indiana.

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

Section I. Chapter 14 of the *South Bend Municipal Code* shall be amended to include new Article 13 which shall read in its entirety as follows:

ARTICLE 13. SMOKE FREE AIR REGULATIONS FOR WORKPLACES AND PUBLIC PLACES.¹

Sec. 14-123. Definitions.

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section:

(a) "Ashtray" means any receptacle that is used for disposing of smoking materials, including, but not limited to ash and filters.²

(b) "Bar" means an establishment used primarily for the sale of alcoholic beverages for consumption by patrons on the premises and which holds a retailer's permit under the laws of the State of Indiana. The terms includes, but is not limited to, taverns, nightclubs, and cocktail lounges.

(c) "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including, but not limited to, retail establishments where

¹ *Indiana Code* § 7.1-5-12-13 entitled "Local Ordinances" authorizes a city to pass ordinances which may be more restrictive than state statutes addressing the "prohibition of smoking".

² *Indiana Code* § 7.1-5-12-0.5 addresses "Ashtray defined."

goods or services are provided to the public, and other entities where accounting, counseling, legal, medical, dental, engineering, architectural, or other professional services are delivered.

(d) “Electronic Smoking Device” means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen or under any other product name or descriptor.

(e) “Employee” means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services.

(f) “Employer” means a person, business, association, municipal corporation, trust, or nonprofit entity that employs the services of one or more individual employees.

(g) “Enclosed Area” means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.

(j) “Health Care Facility” means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals, addiction treatment hospitals and facilities, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. The term “Health Care Facility” shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within healthcare facilities.

(k) “Hookah” means a water pipe and any associated products and devices which are used to produce fumes, smoke, and/or vapor from the burning of material including, but not limited to, tobacco, shisha, or other plant matter.

(l) “Place of Employment” means an area under the control of a public or private employer including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles.³

(m) “Playground” means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on South Bend grounds.

³ *Indiana Code* § 7.1-5-12-1 addresses “Place of employment defined” and specifically excludes private vehicles.

(n) "Private Club" means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

(o) "Public Place" means an area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, gaming facilities, health care facilities, hotels and motels, laundromats, public transportation vehicles and facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a childcare, adult day care, or health care facility.⁴

(p) "Restaurant" means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

(r) "Service Line" means an indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.

(s) "Shopping Mall" means a public walkway or hall area that serves to connect retail or professional establishments.

(t) "Smoking" means inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookah and marijuana, in any manner or in any form. "Smoking" also includes the use of an e-cigarette which creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.⁵

(u) "Sports Arena" means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.

⁴ *Indiana Code* § 7.1-5-12-2 addresses "Public place defined".

⁵ *Indiana Code* § 7.1-5-12-3 addresses "Smoking defined".

Sec. 14-124. Prohibition of Smoking.⁶

Except as provided in Section 14-127, smoking shall be prohibited in all enclosed public places within the City of South Bend including but not limited to, the following places:

- (a) Aquariums, galleries, libraries, and museums;
- (b) Areas available to the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments;
- (c) Bars;
- (d) Bingo facilities;
- (e) Child care and adult day care facilities;
- (f) Convention facilities;
- (g) Educational facilities, both public and private;
- (h) Elevators;
- (i) Gaming facilities;
- (j) Health care facilities;
- (k) Hotels and motels;
- (l) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
- (m) Polling places;

⁶ *Indiana Code* § 7.1-5-12-4 addresses "Smoking prohibited in public places, places of employment, and state vehicles".

- (n) Private clubs;
- (o) Public transportation vehicles, including buses and taxicabs, under the authority of the City of South Bend, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities;
- (p) Restaurants;
- (q) Restrooms, lobbies, reception areas, hallways, and other common-use areas;
- (r) Retail stores;
- (s) Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the City of South Bend, Indiana or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the City of South Bend, Indiana;
- (t) Service lines;
- (u) Shopping malls;
- (v) Sports arenas, including enclosed places and outdoor arenas;
- (w) Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances;
- (x) Tobacco Specialty Bars; and
- (y) Tobacco Retail Stores.

Sec. 14-125. Prohibition of Smoking in Enclosed Places of Employment.

- (a) Smoking shall be prohibited in all enclosed areas of places of employment without exception. This

includes, without limitation, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

(b) The prohibition on smoking shall be communicated to all existing employees by the effective date of this Article and to all prospective employees upon their application for employment.

Sec. 14-126. Reasonable Distance.⁷

Smoking shall be prohibited outdoors within a reasonable distance from an enclosed area where smoking is prohibited by this Article, but in no event closer than fifteen feet (15'), so as to insure that tobacco smoke does not enter into establishments designated as smoke free under this Article through entrances, windows, ventilation intakes or other means.

Sec. 14-127. Exemptions.

Notwithstanding the smoking prohibitions in Section 14-124, smoking is permitted in the following locations:

(a) Private residences, unless used as a licensed childcare, adult day care or health care facility.

(b) None of the areas set forth in this Section shall be exempt from the provisions of this Article if smoke from any area enters, either directly or indirectly, through entrances, windows, ventilation systems, or other means, where smoking is otherwise prohibited by this Article.

Sec. 14-128. Prohibition of Smoking in Outdoor Public Places.

Smoking shall be prohibited in the following outdoor places:

(a) Outdoor seating areas of restaurants, bars, private clubs, and businesses except those restricted to individuals over the age of 18 years of age;

(b) In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in and

⁷ *Indiana Code* § 7.1-5-12-4 sets forth a eight foot (8') distance requirement from a public entrance to a public place or place of employment.

within fifteen feet (15') of bleachers and grandstands for use by spectators at sporting and other public events;

(c) Within fifteen feet (15') of all outdoor playgrounds;

(d) Within fifteen feet (15') of all outdoor public transportation stations, platforms, and shelters under the authority of the City of South Bend, Indiana; and

(e) In outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multi-unit residential facilities, except in designated smoking areas, not to exceed twenty-five percent (25%) of the total outdoor common area, which must be located at least fifteen feet (15') outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

Sec. 14-129. Removal of Smoking Paraphernalia and Signage Requirements.

(a) All ashtrays shall be removed from any area where smoking is prohibited by this Article by the owner, operator, manager, or other person having control of the area.

(b) An owner, operator, manager, or official in charge of a public place or place of employment, except vehicles, shall post conspicuous signs at each outdoor entrance that read "The City of South Bend Prohibits Smoking Within 15 Feet of this Entrance".

Sec. 14-130. Declaration of Establishment as Nonsmoking.

Notwithstanding any other provision of this Article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that the entire establishment, facility, or outdoor areas are a smoke free place.

Sec. 14-131. Non-Retaliation and Non-Waiver of Rights.⁸

(a) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Article. Notwithstanding Section 14-133, violation of this subsection shall be punishable by a fine not to exceed one thousand dollars (\$1,000) for each violation.

(b) An employee who works in an outdoor area restricted to individuals over the age of 18 years of age where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

⁸ *Indiana Code* § 7.1-5-12-11 addresses retaliation.

Sec. 14-132. Enforcement.

(a) The South Bend Department of Code Enforcement and South Bend Police Department shall enforce this Article. Additionally, the St. Joseph County Health Department, the South Bend Fire Department or their designees may, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Article.

(b) Notice of the provisions of this Article shall be given to all applicants for a business license in the City of South Bend.

(c) Any citizen who desires to register a complaint under this Article may initiate enforcement with the Department of Code Enforcement.

(d) An owner, manager, operator, or employee of an establishment regulated by this Article, shall inform person(s) in violation of the appropriate provisions thereof and shall ask those persons to refrain from smoking. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator or employee shall contact a law enforcement agency.

(e) In addition to the remedies provided by the provisions of this Section, the Department of Law or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

Sec. 14-133. Penalties for Violations.

Any owner, manager, operator, or other person in control of an establishment, facility, or outdoor area found to be in violation of this Article shall, when found to be in violation be fined as follows:

- (a) The issuance of a verbal and written warning for the first (1st) violation.
- (b) A fine of two hundred dollars (\$200.00) for the second (2nd) violation within the same calendar year.
- (c) A fine of four hundred dollars (\$400.00) for the third (3rd) violation within the same calendar year.
- (d) A fine of eight hundred dollars (\$800.00) for the fourth (4th) violation within the same calendar year.
- (e) A fine of one thousand five hundred dollars (\$1,500.00) for each additional violation

occurring thereafter within the same calendar year.

(f) Repeated violation of this Article is declared to be a public nuisance, which may be abated by the Department of Law seeking a restraining order, preliminary and permanent injunction, or other means provided for by law, and may bring action to recover the costs of the nuisance abatement.

(g) The Department of Law is authorized to bring civil action against any alleged violator of this Article for all unpaid fines, and any and all expenses incurred by the City to enforce the provisions of this Article to seek compliance from the alleged violator.

(h) Each day on which a violation of this Article occurs shall be considered a separate and distinct violation. Each violation of this Article shall constitute a separate offense.

Section II. Repeal: Article 10 of Chapter 14 entitled "Smoking Regulations" of the *South Bend Municipal Code* is repealed. Any other ordinance which is inconsistent or in conflict with any part of this ordinance is expressly repealed to the extent of such inconsistency or conflict and the remainder of such ordinance or *Code* provision shall be unaffected and remain in effect.

Section III. Severability: If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

Section IV. This ordinance shall be in full force and effect on August 1, 2016, and from after the passage by the Common Council, approval by the Mayor and legal publication.

Council Member at Large Gavin Ferlic

Jo M. Broden

Jo Broden, 4th District Council Member

Randy Kelly

Randy Kelly, 3rd District Council Member

John Voorde

Council Member at Large John Voorde

Filed in Clerk's Office
MAR 09 2016
KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

Attest:

I, Kareemah Flower, City Clerk, hereby verify that the foregoing ordinance was passed/defeated by the South Bend Common Council on the _____ day of _____, 2016, by a vote of _____ in favor and _____ against.

Kareemah Fowler, City Clerk
South Bend, Indiana

Presented by me to the Mayor of the City of South Bend, Indiana, _____ day of _____, 2016, at _____ o'clock __ .m.

Office of the City Clerk

Approved and signed by me on the, _____ day of _____, 2016, at _____ o'clock __ .m.

Pete Buttigieg, Mayor
South Bend, Indiana

1st READING
PUBLIC HEARING
3rd READING
NOT APPROVED
REFERRED
PASSED

Filed in Clerk's Office
MAR 09 2016
KAREEMAH FOWLER
CITY CLERK - SOUTH BEND, IN

RESOLUTION NO. _____

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA CORRECTING SCRIVENER'S ERROR IN RESOLUTION NO. 4537-16 APPROVING THE DESIGNATION OF CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS:

211 West Washington Street

AS AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A TEN (10) YEAR REAL PROPERTY TAX ABATEMENT FOR:

RETAIL PROPERTY LOCATED AT

THE TOWER AT WASHINGTON SQUARE LLC

WHEREAS, on March 14, 2016 the Common Council of the City of South Bend, Indiana, adopted Resolution No. 4537-16 approving the designation of certain areas within the City as Economic Revitalization Areas for the purpose of tax abatement consideration.

WHEREAS, the Common Council desires to correct a scrivener's error appearing in the Confirming Resolution.

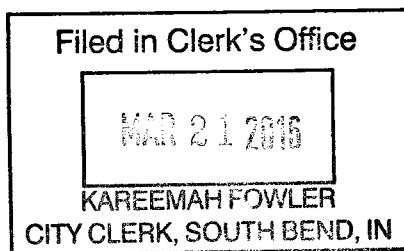
NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AS FOLLOWS:

Section I. Each instance of parcel tax key number of "18-1008-032101" in the Confirming Resolution is deleted and "18-1008-032104" is inserted in its place.

Section II. The Confirming Resolution is reaffirmed in all other respects and will continue in full force and effect according to its terms

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

PRESENTED
NOT APPROVED
ADOPTED
US.105059206.02



Member of the Common Council

227 W. JEFFERSON BOULEVARD
SUITE 1400 S.
SOUTH BEND, IN 46601-1830



PHONE: 574/235-9371
FAX: 574/235-9021

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
COMMUNITY INVESTMENT
SCOTT FORD, EXECUTIVE DIRECTOR

March 22, 2016

Council Member Gavin Ferlic, Chairperson
Community Investment Committee
South Bend Common Council
4th Floor, County City Building
South Bend, IN 46601

RE: Real Property Tax Abatement Petition for: **County Development, LLC**

Dear Council Member Ferlic:

Please find the attached information pertaining to a real property tax abatement petition for County Development, LLC:

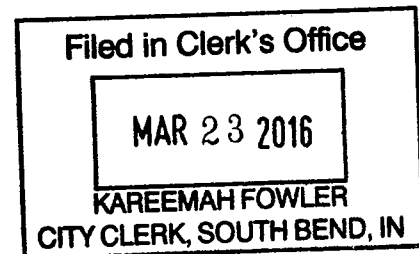
- Department of Community Investment's summary report
- Copy of the petition
- Statement of Benefits form
- Supporting information.

The report contains the Department's findings relative to the above petition. County Development, LLC will be investing approximately \$6,800,000 on the construction of a new 40,000 square foot supermarket store and 4000 square foot convenience store and fuel center business at the intersection of Mayflower Rd and Western Avenue. The project meets the qualifications for a (6) six year real property tax abatement. A representative from County Development, LLC will be available to meet with the Committee on Tuesday, March 29, 2016.

Should you or any of the other Council members have any questions concerning the report, or need additional information, please feel free to call me at 235-5823.

Sincerely,

Aaron Kobb
Director Economic Resources



TAX ABATEMENT REPORT

TO: SOUTH BEND COMMON COUNCIL

FROM: AARON KOBBS

SUBJECT: REAL PROPERTY TAX ABATEMENT PETITION FOR:
County Development, LLC

DATE: March 22, 2016

On Tuesday, March 22, 2016, a petition from County Development, LLC was received and subsequently filed with the City Clerk for real property tax abatement consideration for property to be located at the intersection of Mayflower Rd and Western Avenue, South Bend, IN 46619. 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

- Approximately \$6,800,000 construction of a new 40,000 square foot supermarket store and 4000 square foot convenience store and fuel center business.
- Estimated total taxes on new building construction during six year abatement period – \$1,180,460
- Estimated taxes being abated on new building construction during six year abatement period – \$464,668
- Estimated taxes to be paid on new building construction during six year abatement period – \$715,792

EMPLOYMENT IMPACT

Per the petition, it is estimated that the total project will:

- Create 13 permanent, full-time jobs within the six year abatement period, representing a new annual payroll of approximately \$453,440
- 30 total jobs will be retained with a total annual payroll of approximately \$936,000

ABATEMENT QUALIFICATION

1. A review of the tax abatements previously granted, finds that the petitioner has not been granted or associated with previous abatements.
2. The Building Commissioner 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 not located in a designated Development Area.
4. A review of the Tax Abatement Ordinance No. 9394-03 finds that the petitioner meets the qualifications for a (6) six-year real property tax abatement under section 2-84.2, Real Property Tax Abatement.

RESOLUTION NO. _____

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

**Intersection of Mayflower Rd and Western Avenue, South Bend, IN
46619**

AS AN ECONOMIC REVITALIZATION AREA FOR
PURPOSES OF A SIX (6) YEAR REAL
PROPERTY TAX ABATEMENT FOR

County Development, LLC

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 the intersection of Mayflower Rd and Western Avenue, South Bend, IN 46619 and which is more particularly described as follows:

LOTS 61 & 62 GROUSES PRO SEC 8-37-2E 16/17 ANNEXED ORD#10375-15
LOT 63 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 64 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 65 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 66 GROUSES ADD 16/17 ANNEXED ORD#10375-15
W 90 FT LOTS 67 & 68 GROUSES ADD 16/17 ANNEXED ORD#10375-15
E 75' LOT 54 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 54 EX E 75' GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 55 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 56 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOTS 57 & 58 100'S SIDE GROUSES ADD 16/17 ANNEXED ORD#10375-15

and which has a Key Number [to be assigned] 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:

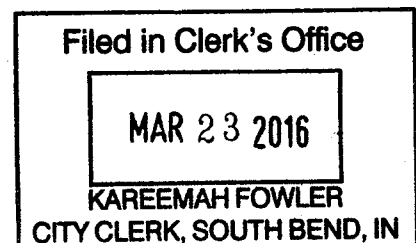
SECTION I. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement. Such designation is for Real Property tax abatement only and is limited to two (2) calendar years from the date of adoption 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 a real property tax deduction for a period of (6) six years as shown by 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.

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.

Member of the Common Council

NOT APPROVED
ADOPTED



RESOLUTION NO. _____

A RESOLUTION OF THE COMMON COUNCIL OF THE
CITY OF SOUTH BEND DESIGNATING CERTAIN AREAS WITHIN
THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS

Intersection of Mayflower Rd and Western Avenue, South Bend, IN 46619

AS AN ECONOMIC REVITALIZATION AREA
FOR PURPOSES OF A SIX (6) YEAR REAL
PROPERTY TAX ABATEMENT FOR

County Development, LLC

WHEREAS, a petition for real property tax abatement has been filed with the City Clerk for consideration by the Common Council of the City of South Bend, Indiana (the "Common Council") requesting that portion of the property located at the intersection of Mayflower Rd. and Western Avenue, South Bend, Indiana 46619 which is more particularly described as:

LOTS 61 & 62 GROUSES PRO SEC 8-37-2E 16/17 ANNEXED ORD#10375-15
LOT 63 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 64 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 65 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 66 GROUSES ADD 16/17 ANNEXED ORD#10375-15
W 90 FT LOTS 67 & 68 GROUSES ADD 16/17 ANNEXED ORD#10375-15
E 75' LOT 54 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 54 EX E 75' GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 55 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 56 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOTS 57 & 58 100'S SIDE GROUSES ADD 16/17 ANNEXED ORD#10375-15

and which shall have a separate Key Number assigned upon the subdivision of the parcel into one tax parcel and provided to the Common Council be designated as an Economic Revitalization Area under the provisions of Indiana Code § 6-1.1-12.1 et seq., and South Bend Municipal Code Sections 2-76 et seq., and;

WHEREAS, petitioner has agreed to and has accepted responsibility to report any changes in the final legal description and to report the final, appropriate Key Number to the Department of Community Investment and to the Office of the City Clerk; and

WHEREAS, the Department of Community Investment has concluded an investigation and prepared a report with information sufficient for the Common Council to determine that the area

qualifies as an Economic Revitalization Area under Indiana Code § 6-1.1-12.1, et seq., and South Bend Municipal Code Sections 2-76, et seq., and has further prepared maps and plats showing the boundaries and such other information regarding the area in question as required by law; and

WHEREAS, the Community Investment Committee of the Common Council has reviewed said report and recommended to the Common Council that the area qualifies as an Economic Revitalization Area.

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

SECTION I. The Common Council hereby determines and finds that the Petition for Real Property Tax Abatement and the Statement of Benefits form completed by the Petitioner meets the requirements of Indiana Code § 6-1.1-12.1 et seq., for tax abatement.

SECTION II. The Common Council hereby determines and finds the following:

- A. That the description of the proposed redevelopment or rehabilitation meets the applicable standards for such development;
- B. That the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of this nature;
- C. That the estimate of the number of individuals who will be employed or whose employment will be retained by the Petitioner can reasonably be expected to result from the proposed described redevelopment or rehabilitation;
- D. That the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained by the Petitioner can be reasonably expected to result from the proposed redevelopment or rehabilitation;
- E. That the other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation; and
- F. That the totality of benefits is sufficient to justify the requested deduction, all of which satisfy the requirements of Indiana Code § 6-1.1-12.1-3.

SECTION III. The Common Council hereby determines and finds that the proposed described redevelopment or rehabilitation can be reasonably expected to yield benefits identified in the Statement of Benefits, Sections 1 through 3 of the Petition for Real Property Tax Abatement Consideration and the Memorandum of Agreement between the Petitioner and the City of South Bend, and that the Statement of Benefits form completed by the petitioner, said form being prescribed by the State Board of Accounts, are sufficient to justify the deduction granted under Indiana Code § 6-1.1-12.1-3.

SECTION IV. The Common Council hereby accepts the report and recommendation of the Community Investment Committee that the area herein described be designated as an Economic Revitalization Area and hereby adopts a Resolution designating this area as an Economic Revitalization Area for purposes of real property tax abatement.

SECTION V. The designation as an Economic Revitalization Area shall be limited to two (2) calendar years from the date of the adoption of this Resolution by the Common Council.

SECTION VI. The Common Council hereby determines pursuant to Indiana Code 6-1.1-12.1-17 that the property owner is qualified for and is granted a property tax deduction for a period of six (6) years as shown by the attachment pursuant to Indiana Code 6-1.1-12.1-17

SECTION VII. The Common Council directs the City Clerk to cause notice of the adoption of this Declaratory Resolution for Real Property Tax Abatement to be published pursuant to Indiana Code § 5-3-1 and Indiana Code § 6-1.1-12.1-2.5, said publication providing notice of the public hearing before the Common Council on the proposed confirming of said declaration.

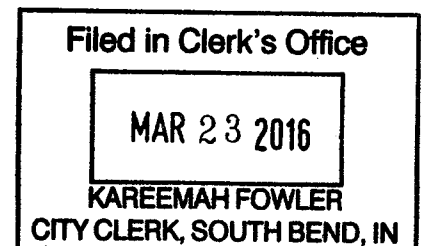
SECTION VIII. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

Member of the Common Council

PRESENTED

NOT APPROVED

ADOPTED



6 YEAR

21-Mar-16

County Development, LLC

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

Assessed Value:	Current AV & Tax	Without Abatement	to be assigned						17% Year 6
			100% Year 1	85% Year 2	66% Year 3	50% Year 4	34% Year 5	17% Year 6	
Current Assessed Value	582,000	582,000	582,000	582,000	582,000	582,000	582,000	582,000	582,000
Base Assessed Value	582,000	582,000	582,000	582,000	582,000	582,000	582,000	582,000	582,000
Less Abatement Deduction	0	5,435,360	5,435,360	5,435,360	5,435,360	5,435,360	5,435,360	5,435,360	5,435,360
Net Assessed Value	582,000	6,017,360	(4,620,056)	1,397,304	(3,587,338)	(2,717,680)	(1,848,022)	4,169,338	5,093,349
Property Taxes:									
Assume constant tax rate of	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%
Gross Tax (tax rate x net assessed value)	31,991	330,763	76,807	76,807	133,574	181,377	229,181	229,181	279,972
Less Circuit Breaker Credit	(10,925)	(112,953)	0	0	0	0	(22,823)	(22,823)	(67,888)
Net Tax	21,067	217,810	217,810	76,807	133,574	181,377	206,358	206,358	212,084
Circuit Breaker Cap									
Circuit Breaker	17,460	180,521	180,521	180,521	180,521	180,521	180,521	180,521	180,521
Debt Service	3,607	37,289	3,607	8,659	15,059	20,448	25,837	25,837	31,563
Circuit Breaker Cap	21,067	217,810	184,127	189,180	195,579	200,969	206,358	206,358	212,084
Totals	126,400	1,180,460	1,306,860	464,668	842,192				

Year	Existing Taxes	New Project Taxes	Combined Existing & New Taxes	Tax Abated	Net Tax Paid
1	21,067	196,743	217,810	185,819	31,991
2	21,067	196,743	217,810	141,003	76,807
3	21,067	196,743	217,810	84,236	133,574
4	21,067	196,743	217,810	36,433	181,377
5	21,067	196,743	217,810	11,452	206,358
6	21,067	196,743	217,810	5,726	212,084
Totals	126,400	1,180,460	1,306,860	464,668	842,192

*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.

Filed in Clerk's Office
 MAR 23 2016
 KAREEMAH FOWLER
 CITY CLERK, SOUTH BEND, IN

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://southbend.in.gov/government/content/tax-abatement> before processing can be complete.



General Information		Project Name	Project Number
Legal name as registered with Secretary of State	County Development LLC		
Business structure	Limited Liability Company		
Company website	www.martins-supermarkets.com		
Proposed Project Information			
Proposed project address	Intersection Mayflower Rd & Western Ave	Parent company name	Martin's Super Markets, Inc.
City, State, Zip	South Bend, IN 46619	Legal owner	County Development LLC
Site acreage or acreage required	8.43 Acres	Is the real estate owned or leased?	Owned
Square feet of facility	44,000	If leased by whom	
Primary Contact Information			
Primary company contact name	Gregory L. Freehauf	Title	VP Finance, CFO
Address of company contact	PO Box 2709	Phone	574-239-1818
City, State, Zip	South Bend, IN 46680	Email	gfreehauf@martins-supermarkets.com
Senior Official Information			
Company senior official name	Gregory L. Freehauf	Title	VP Finance, CFO
Address of company contact (if different from above)	PO Box 2709	Phone	574-239-1818
City, State, Zip	South Bend, IN 46680	Email	gfreehauf@martins-supermarkets.com
Consultant Information/Agent			
Hired business consultant/agent name	N/A	Consultant release (Y/N)	
Address		Local economic development partners approval (Y/N)	
City, State, Zip		Email	
Project Overview			
Brief description of your company, project, and why the property is necessary for economic growth.	40,000 square foot supermarket store and 4,000 square foot convenience store and fuel center business		
Certified technology park appropriate			
Community Revitalization Enhancement District			
Certify that the Building Permit has not been issued (Y/N)	Yes	Number of residential units created by project	0
If this is a petition for personal property tax abatement, has the equipment been installed?	No		

Filed in Clerk's Office

MAR 23 2016

KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

Investment Details			
Public infrastructure needs (Off-site of project in dollars)	Has any 504 funding been received?	What is the value of any equipment being purchased in Indiana for the project?	What is the value of any equipment being purchased from out of state for the project?
\$550,000	No	\$945,900	\$2,837,700

New Project Investments

Calendar Year	2015	2016	2017	2018	2019	2020	2021	2022
Land Acquisition	\$ 2,412,978							
Building Lease Payments								
Building Purchase Costs								
New Building Construction		\$ 5,394,200	\$ 1,400,000					
Existing Building Improvements								
New Machinery & Equipment		\$ 3,153,600	\$ 630,000					
Special Tooling/Retrofitting								
New Furniture/Fixtures		\$ 210,000	\$ 70,000					
New Computer/IT Hardware		\$ 155,000						
New Software		\$ 60,000						
On-site Rail Infrastructure								
On-site Fiber Infrastructure		\$ 15,000						
TOTAL								

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)
2015	30	\$15.00				
2016			3	\$16.00	\$1,925	3
2017			10	\$17.00	\$6,800	10
2018						
2019						
2020						
2021						
2022						
2023						
2024						
2025						
2026						

Provide hourly wage information for new employees in the following positions.

	Full Time	Part time
Laborers	\$9.50 (11 new employees)	\$9.50 (26 new employees & 58 retained employees)
Technical		
Managerial	\$31.00 (2 new employees)	
Administrative		

Who will be the individual responsible for coordinating with WorkOne on recruiting? **Robyn Albert**

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

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	2015		2014		2013	
	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time
Black	5	11	5	11	5	10
Hispanic	2	3	1	1	2	3
Asian						
Indian						
Female	14	29	13	25	15	29
Other						

Marlin's is committed to diversity and participates in many community job fairs. Recent participation would include job fairs with WorkOne, Goodwill and IUSB. We also partner with various schools in the SBSCS to provide guidance to students on aspects of getting a job.

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	Construction Related (Contractors):					
	A	Employ Local Companies (75%)	Yes	20	20	
	B	Purchase Materials from Local Companies (75%)	Yes	20	20	
	C	Require Employees vs. Independent Contractors	Yes	19	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 Plans	Yes	20	20	
			Sub-total Construction Related:		141	141
2	Wage & Benefit Related (Owner):					
	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		15	
	F	Provide Transportation Assistance	No		14	
	G	Provide Employer Assisted Housing program	No		9	
		Sub-total Wage & Benefit Related:		124	162	
3	Workforce Related:					
	A	Create New Jobs	Yes	42	42	
	B	Retain Existing Jobs	Yes	41	41	
	C	Maintain Affirmative Action Plan	Yes	35	35	
	D	Provide Targeted Hiring Preference	No		34	
		Sub-total Workforce Related:		118	152	
4	Support a Municipal Facility:					
	A	Support a SB Municipal Facility (donations to the zoo, conservatory, museum, etc)	Yes	84	84	
		Name of Facility:				
		Sub-total Municipal Facility:		84	84	
Sub-total from Above:				467	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.

What is the current assessed value?	Real Property:	620,700	Personal Property:	
What is the projected assessed value?	Real Property:	6,017,360	Personal Property:	
What is the tax key number for this project?	TO BE ASSIGNED			
What is the six digit NAICS code?				
Please attach a Google map and street view of the location.				
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	13,593		
	Year Two	7586		
	Year Three	6979		
	Year Four	8870		
	Year Five	8822		

Staff Use Only
Please fill out the Public Benefit Summary Information and add to the total from above.

Public Benefit Item:		(Y or N)	Points	Points
Project Related:				
5	A	Redevelop a Site that has Special Needs		49
	B	Develop Based on Local University Research		35
	C	Achieve a Physical Element of a Plan		36
	Sub-total Project Related:		0	120
	Super Size Projects (point values are cumulative):			
6	A	100% to 199%		25
	B	200% to 299%		68
	C	300% to 399%		65
	D	400% and Over		52
	Sub-total Super Size Projects:		0	210
Pay for Municipal Infrastructure:				
7	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
	Sub-total Infrastructure Related:		0	131
Total from Applicant Section			467	539
Total from Staff Section			0	461
Total Public Benefit Points:			467	1000

Supplement to Petition for Incentives Frequently Asked Questions

We are frequently asked to explain the following questions, in an effort to clarify we are providing answers below.

1) How do I pay my petition filing fee?

Your petition filing fee can be paid either in person or via mail to:

**City Clerk's Office
Attn: Deputy City Clerk
227 West Jefferson Blvd. • Suite 400 S
South Bend, Indiana 46601**

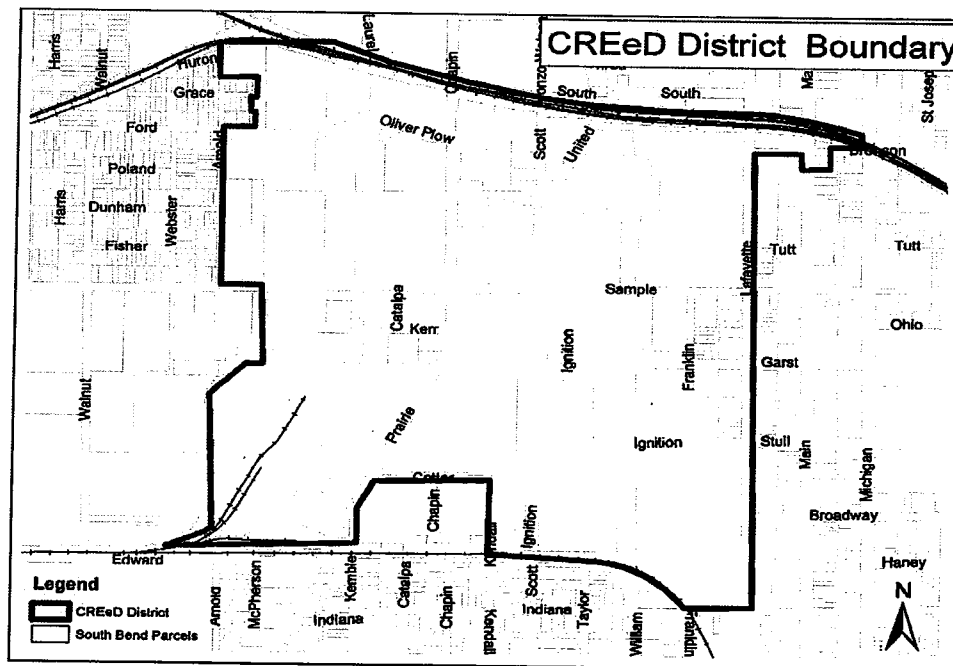
*Or online via paypal at:
<http://southbendin.gov/government/content/tax-abatement>*

2) Certified Technology Park appropriate? (Page one, under project overview)

In the South Bend area there are only two Certified Technology Parks, Innovation Park and Ignition Park. If your property is not located in either then the answer would be no.

3) Community Revitalization Enhancement District? (Page one, under project overview)

The map below outlines the CREd area, please check to see if you fall within the boundaries.



4) Has any 504 funding been received? (Page one, under investment details)

504 Funding is a loan that come from the Small Business Administration. This funding must be applied for to be received.

5) Total training expenditure – not cumulative (Page two, under full time Indiana resident positions)

The amount of money to be spent per year on training over the course of the project.

6) Total number to be trained – not cumulative (Page two, under full time Indiana resident positions)

The amount of people that you will train per year over the length of the project.

If you have any additional questions that are not addressed by this document, please contact Sarah Heintzelman in the Department of Community Investment at 574.235.5842 or email at sheintze@southbendin.gov



**STATEMENT OF BENEFITS
REAL ESTATE IMPROVEMENTS**

State Form 61767 (R4 / 2-13)

Prescribed by the Department of Local Government Finance

20__ PAY 20__

FORM SB-1 / Real Property

PRIVACY NOTICE

The cost and any specific individual's salary information is confidential; the balance of the filing is public record per IC 6-1.1-12.1-5.1(c) and (d).

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:

1. 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. "Projects" planned or committed to after July 1, 1987, and areas designated after July 1, 1987, require a STATEMENT OF BENEFITS. (IC 6-1.1-12.1)
2. Approval of the designating body (City Council, Town Board, County Council, etc.) must be obtained prior to initiation of the redevelopment or rehabilitation, BEFORE a deduction may be approved.
3. 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. If the property owner misses the May 10 deadline in the initial year of occupation, he can apply between March 1 and May 10 of a subsequent year.
4. Property owners whose Statement of Benefits was approved after June 30, 1991, must attach a Form CF-1/Real Property annually to the application to show compliance with the Statement of Benefits. [IC 6-1.1-12.1-5.1(b) and IC 6-1.1-12.1-5.3(j)].
5. The schedules established under IC 6-1.1-12.1-4(d) for rehabilitated property apply to any economic revitalization areas designated after June 30, 2000, unless an alternative deduction schedule is adopted by the designating body (IC 6-1.1-12.1-17). The schedules effective prior to July 1, 2000, shall continue to apply to economic revitalization areas designated before July 1, 2000.

SECTION 1 TAXPAYER INFORMATION

Name of taxpayer County Development LLC		
Address of taxpayer (number and street, city, state, and ZIP code) P. O. Box 2709, South Bend, IN 46680		
Name of contact person Gregory L. Freehauf	Telephone number (574) 239-1818	E-mail address gfreehauf@martins-supermarkets.com

SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT

Name of designating body Common Council of South Bend		Resolution number
Location of property Mayflower Road & Western Avenue	County St. Joseph	DLGF taxing district number
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) 40,000 square foot supermarket store and 4,000 square foot convenience store and fuel center business		Estimated start date (month, day, year) May 1, 2016
		Estimated completion date (month, day, year) April 1, 2017

SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT

Current number	Salaries	Number retained	Salaries	Number additional	Salaries
98	\$1,440,000	30	\$936,000	13	\$453,440

SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT

	REAL ESTATE IMPROVEMENTS	
	COST	ASSESSED VALUE
Current values	0	
Plus estimated values of proposed project	\$9,207,178	
Less values of any property being replaced	0	
Net estimated values upon completion of project	\$9,207,178	

SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER

Estimated solid waste converted (pounds) _____	Estimated hazardous waste converted (pounds) _____
Other benefits _____	

MAR 23 2016

KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

SECTION 6 TAXPAYER CERTIFICATION

I hereby certify that the representations in this statement are true.

Signature of authorized representative DN: cn=Gregory L. Freehauf, o=Martin's Super Markets, ou=Martin's Super Markets, email=gfreehauf@martins-supermarkets.com, c=US Date: 2016.03.18 16:11:58 -0400	Title Vice President Finance, CFO	Date signed (month, day, year) 03/18/16
--	--------------------------------------	--

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. The deduction is allowed for _____ years* (see below).
- F. Did the designating body adopt an alternative deduction schedule per IC 6-1.1-12.1-17? Yes No
If yes, attach a copy of the alternative deduction schedule to this form.

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 (signature and title of authorized member of designating body)	Telephone number ()	Date signed (month, day, year)
Attested by (signature and title of attester)	Designated body	

* If the designating body limits the time period during which an area is an economic revitalization area, it does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years designated under IC 6-1.1-12.1-4.

- A. For residentially distressed areas, the deduction period may not exceed five (5) years.
- B. For redevelopment and rehabilitation or real estate improvements:
 - 1. If the Economic Revitalization Area was designated prior to July 1, 2000, the deduction period is limited to three (3), six (6), or ten (10) years.
 - 2. If the Economic Revitalization Area was designated after June 30, 2000, and is not in a residentially distressed area, the deduction period may not exceed ten (10) years.



Common Council
City of South Bend Indiana
Tim Scott, Council President
4th Floor County-City Building
227 West Jefferson Boulevard
South Bend, Indiana 46601
(574) 235-9173 Facsimile

(574) 235-5980

(574)235-5567 TTY/TDD

March 21, 2016

Members of the Common Council
4th Floor County-City Building
South Bend, Indiana 46601

Re: Ordinance to Repeal Ordinance No. 10343-14

Dear Council Members:

As the original sponsors of Ordinance No. 10343-14, we are recommending that the ordinance which we sponsored, along with former Council Member at Large Derek D. Dieter, which formally created policies and procedures for South Bend Common Council Members regarding city-owned technologies, Facebook standards, social media and social networking be repealed.

We did not anticipate that a sitting member of the Council would initiate litigation against the City of South Bend challenging the regulations. In light of that action, which is currently being defended by the City's Department of Law, we believe it would be best to repeal the regulations.

Thank you.

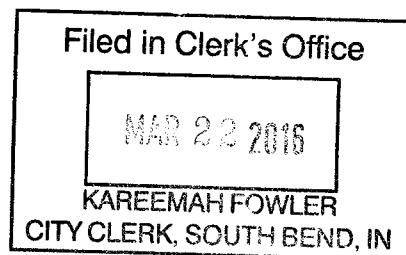
Sincerely,


Tim Scott, Council President
1st District Council Member


Karen L. White
Council Member at Large

Gavin Ferlic
Council Member at Large

Attachment



Bill No. _____

Ordinance No. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, AMENDING CHAPTER 2, ARTICLE 1 OF THE *SOUTH BEND MUNICIPAL
CODE* BY DELETING SECTIONS 2-9.1 ADDRESSING POLICIES AND PROCEDURES
GOVERNING CITY-OWNED TECHNOLOGIES, FACEBOOK STANDARDS, SOCIAL
MEDIA AND SOCIAL NETWORKING POLICIES AND PROCEDURES

STATEMENT OF PURPOSE AND INTENT

The South Bend Common Council passed Ordinance No. 10343-14 on December 8, 2014, which policies and procedures governing city-owned technologies, facebook standards, social media and social networking regulations for members of the South Bend Common Council. Those regulations were based on best practices and included among other things that the Council's Information and Technology Committee would be responsible for ongoing training and educational sessions for the Council Members. Similar regulations for such training are required by the House Ethics Committee for members of the U.S. House of Representative. The ordinance called for an effective date of February 2, 2015.

Oliver Davis, Jr. filed a lawsuit against the City of South Bend, Indiana in the United State District Court, Northern District of Indiana, South Bend Division, No. 3:14-cv-2082 RLM-CAN challenging the regulations.

In the interest of amicably resolving concerns, the original sponsors of Ordinance No. 10343-14 filed Resolution No. 4419-15 which was adopted by the South Bend Common Council and "delayed indefinitely" the effect date of the ordinance's regulations.

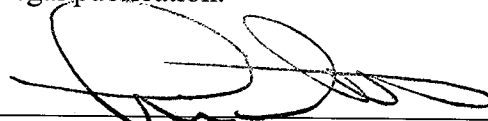
On March 4, 2016, the United States Magistrate Judge in the pending lawsuit issued an Order establishing a deadline of March 31, 2016 regarding the stayed judicial proceedings for the parties.

In the interest of minimizing any potential costs resulting from the pending litigation, this ordinance would repeal in its entirety Ordinance No. 10343-14.

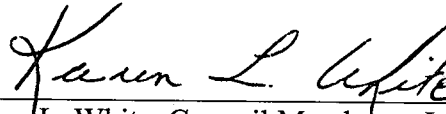
*Now, Therefore, Be It Ordained by the Common Council of the City of South Bend,
Indiana, as follows :*

Section I. Ordinance No. 10343-14 passed by the Common Council on December 9, 2014, is hereby repealed in its entirety.

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



Tim Scott, 1st District Council Member



Karen/L. White, Council Member at Large

Gavin Ferlic, Council Member at Large

Attest:

Office of the City Clerk

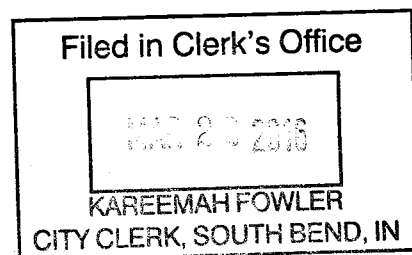
Presented by me to Pete Buttigieg, the Mayor of the City of South Bend, Indiana, on the _____ day of _____, 2016, at _____ o'clock ____ m.

Office of the City Clerk

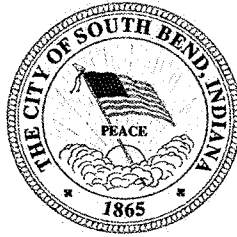
Approved and signed by me on the _____ day of _____, 2015, at _____ o'clock ____ m.

Pete Buttigieg, Mayor
City of South Bend, Indiana

1st READING
PUBLIC HEARING
3rd READING
NOT APPROVED
REFERRED
PASSED



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



Bill No. 19-16

PHONE 574/235-9241
FAX 574/235-7670
TTY 574/235-5567

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR

DEPARTMENT OF LAW

CRISTAL C. BRISCO
CORPORATION COUNSEL

ALADEAN M. DEROSE
CITY ATTORNEY

March 23, 2016

Mr. Tim Scott
President, South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

Re: Ordinance to Further Amend Municipal Code Regarding Buskers

Dear Council President Scott:

On December 9, 2013 the South Bend Common Council passed Ordinance No. 10274-13 which amended Chapter 4, Article 4, of the South Bend Municipal Code by adding a new Section 4-21. This new Section licensed and regulated "busking" which is the performance of entertainment by individuals on public sidewalks. That regulatory scheme was designated as a "pilot program" for which review by the Common Council and City Administration was to be done by December 31, 2014. I made a report to the Common Council about busking on December 8, 2014. In that report, I concluded that the presence of buskers or street performers in the downtown area of South Bend had a positive effect on the area and continued to be favored by businesses and the public. One comment summarized the overall attitude of those interviewed by DTSB: "Busking is awesome; people really seem to appreciate it and enjoy it...."

The other uniform comment from interviewees was that some regulation is desirable because rules not only ensure public safety resulting from potential crowding in critical areas like business entrances and sidewalks adjacent to busy streets, but rules also assist buskers resolve conflicts that may arise with competition for busking placement, and it helps buskers be aware of public safety concerns.

Since July 29, 2014 (under Ord. No. 10318-14), the City has not enforced the busker ordinance (No. 10274-13) due to pending federal litigation. In order to retain the important

ELLIOT A. ANDERSON
TASHA REED OUTLAW

BENJAMIN J. DOUGHERTY
MICHAEL J. SCHMIDT

ANDREA HUNTINGTON
STEPHANIE STEELE

objective of public safety, yet make the busking process minimally onerous for performers, the attached ordinance is being submitted to the Council. It varies from the original in the following significant ways:

- (1) The registration and permit process has been eliminated.
- (2) The distance requirements for proximity between other buskers, and between buskers and buildings, driveways, curb cuts, outdoor eating areas and similar places or structures, has been clarified, and the linear distances are recommendations, not mandates.
- (3) Clarification has been made to permit busking on days that special events occur in the Central Business and Entertainment Area (CBEA) during hours and places within the CBEA outside the time and location of the event, and to permit performances during special events by certain buskers if approved by the event organizer.
- (4) The fine for a second offense has been reduced from \$250.00 to \$200.00.
- (5) A busker has a duty to provide true and accurate self-identification information to a person authorized to enforce the ordinance when that authorized person has probable cause to believe a violation of the ordinance has occurred.
- (6) An exemption in the regulation of solicitation under Chapter 13, Article 2, Section 13-26 of the *Municipal Code* has been inserted to exclude from regulation those buskers who solicit money for their performances.

Please note, too, that because this regulatory scheme remains subject to federal judicial review, the City Administration has agreed that it will not enforce the proposed, attached ordinance until that litigation is concluded either by court order or agreement between the parties. Notwithstanding this limitation, passage of this ordinance is necessary to conclude the federal litigation process. Because this is no longer a licensing ordinance, it has been re-codified under Chapter 14 of the Municipal Code, which comprises Specific Public Safety Regulations. A new Article 13 of this Chapter has been added entitled: "Busker and Street Performer Regulations."

Tim Scott
March 23, 2016
Page 3

I will present this Ordinance to the South Bend Common Council both at its formal meeting and at its appropriate Committee meeting which are expected to take place April 11, 2016. However, if the Council schedule for April 11 is expected to be unusually time consuming, I would not object to postponing public hearing on this Bill for the meeting of April 25, 2016.

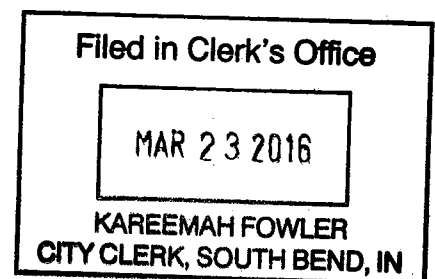
The City Administration would appreciate your favorable consideration of this ordinance. Thank you.

Sincerely,



Aladean M. DeRose
City Attorney

1st READING
PUBLIC HEARING
3rd READING
NOT APPROVED
REFERRED
PASSED



**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, TO ADDRESS BUSKERS AND SIDEWALK PERFORMERS BY
REPEALING CHAPTER 4, ARTICLE 4, SECTION 4-21 OF THE SOUTH BEND
MUNICIPAL CODE, RE-CODIFYING AND AMENDING IT WITHIN A NEW
ARTICLE 13 OF CHAPTER 14, NEW SECTIONS 14-123 THROUGH 14-126 OF THE
MUNICIPAL CODE, AND FURTHER AMENDING CHAPTER 13, ARTICLE 12,
SECTION 13-26 CONCERNING SOLICITATIONS**

STATEMENT OF PURPOSE AND INTENT

On July 28, 2014 the South Bend Common Council passed Ordinance No. 10318-14 which directed that a full and complete review be undertaken of the City of South Bend's pilot program busker ordinance, Chapter 4, Article 4, Section 4-21 of the *Municipal Code of the City of South Bend, Indiana (Municipal Code)* which was originally enacted December 9, 2013 Ordinance No. (10274-13).

The South Bend Common Council and the City Administration have completed their review of the busker ordinance and the busking activity which has occurred in South Bend pursuant to that ordinance since its effective date. They have determined that street entertainers should be encouraged and promoted in the Central Business and Entertainment Area of South Bend; that the City continues to have a substantial interest in the safety of the public and of street performers in the public right of way, and also in protecting the public from aggressive, harassing activity.

However, in achieving these goals of maintaining a safe environment to maximize social, business, cultural and recreational activities, while eliminating nuisance activity which could harm the social environment, it is desirable to modify the existing legislation affecting buskers and solicitation in the South Bend Municipal Code.

As a pilot program, the original ordinance was limited to the Central Business and Entertainment area identified as Exhibit A-1 in the original ordinance (10274-13). At this time that area remains the most heavily travelled pedestrian portion of the City, and the pilot program review did not suggest a present need to expand busking activity into other areas, although this may be desirable in the future.

The most significant changes in the prior busker program under this ordinance include the elimination of the licensing process, and an exemption in the regulation of solicitation under Chapter 13, Article 2, Section 13-26 of the *Municipal Code* for those buskers who solicit money for their performances.

Because buskers and sidewalk performers were previously required to obtain permits, which process is governed generally under Chapter 4 of the *Municipal Code*, elimination of the permit requirement means that regulation of buskers and street performers must be located in another Chapter of the *Municipal Code*. Chapter 14 of the *Municipal Code* governs “Specific Public Safety Regulations,” and, accordingly, a new Article and Section of that Chapter have been added to address regulations for buskers and street performers, specifically, Chapter 14, Article 13 (new), Sections 14-123 through 126. The regulations under this new Article 13, Sections 123-126 of Chapter 14 are similar to prior Chapter 4, Article 4, Section 4-21 with the following changes:

(1) Clarification has been made to permit busking on days that special events occur in the Central Business and Entertainment Area (CBEA) during hours and places within the CBEA outside the time and location of the event.

(2) The fine for a second offense has been reduced from \$250.00 to \$200.00.

(3) A busker has a duty to provide true and accurate self-identification information to a person authorized to enforce the ordinance when that person has probable cause to believe that a violation of the ordinance has occurred.

(4) The distance requirements for proximity between other buskers and between buskers and buildings, driveways, curb cuts, outdoor eating areas and similar places or structures has been clarified and the linear distances are recommendations, not mandates.

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

Section I. Chapter 4, Article 4, Section 4-21 of the South Bend Municipal Code addressing Buskers and Sidewalk Performers is hereby repealed.

Section II. Former Chapter 4, Article 4, Section 4-21 is re-codified and amended at Chapter 14, by adding a new Article 13, comprised of Sections 14-123 through 126, to read in its entirety as follows:

ARTICLE 13. Buskers and Sidewalk Performers Regulations.

Sec. 14-123. Definitions

For purposes of this Section, the following definitions shall apply:

- (a) *Busker(s)* means and includes person(s) who wish to perform on public sidewalks as entertainer(s), including but not limited to performing or entertaining through music, dance, mime, pantomime, theater, acting, puppetry, and similar artistic expression.
- (b) *Central Business and Entertainment Area* means the area depicted in the attached Exhibit A-1.

(c) *City* shall mean City of South Bend, ~~through its Office of the City Controller in the Department of Administration and Finance.~~

(d) *Designated locations* shall mean areas on public sidewalks located within the Central Business and Entertainment Area, except those areas which have been excluded by the Board of Public Works for events approved for locations within this area during the scheduled hours for such events, and any other public sidewalk locations excluded by the Director of the Department of Public Works or his/her designee due to public safety concerns.

(e) *Perform* shall mean forms of entertainment which do not violate the noise regulations set forth in Sections 3-9, and 13-57 of the *South Bend Municipal Code*.

(f) *Sidewalk Performer(s)* shall have the same meaning as buskers(s).

~~(b) Permit Required No person who wishes to perform as a busker or sidewalk performer in the Central Business and Entertainment Area shall do so without a permit required by this Section from the Office of the City Controller Sidewalk Performer(s) shall have the same meaning as busker(s).~~

~~(c) Application: Any person wishing to perform as a busker or sidewalk performer must file a completed application through the Office of the City Controller. Said application shall require:~~

- ~~(1) Name, address, cell phone number and email of person(s) wishing to perform,~~
- ~~(2) Provide proof of identity by a government or school issued identification card or license,~~
- ~~(3) If a minor (under the age of 18 years of age) consent of parent or legal guardian,~~
- ~~(4) Description of form of entertainment the application wishes to perform, and~~
- ~~(5) Signature of the application that he/she acknowledges receiving a copy of the governing regulations and agrees to abide by such regulations if his/her application is approved.~~

Sec. 14-124. General Rules and Conditions for Buskers.

~~(b) Permit Conditions: General Rules and Conditions for Buskers: All persons who are to be issued a permit under this section perform as buskers shall:~~

- ~~(1) Be authorized to perform for the calendar year for which the permit is issued, except on dates which are excluded.~~
- ~~(2) Be authorized to perform at a designated location on a first come first serve basis.~~

- ~~(a)(3)~~ Be authorized to perform in the Central Business and Entertainment Area on a first come first serve basis Mondays through Thursdays from 8:00 a.m. to 9:00 p.m. and from 8:00 a.m. to 11:00 p.m. on Fridays through Sundays, except on those dates and at those times and places which are specifically excluded under subpart (c) of this Section.
- ~~(4)~~ Be required to pay the permit fee of twenty dollars (\$20.00) for said calendar year.
- ~~(5)~~ Be required to prominently display the permit issued while performing.
- ~~(b)~~ ~~(6)~~ Not be required to get a permit under *South Bend Municipal Code* § 13-57 (d) "Permit for playing noncommercial music in public places".
- ~~(c)~~ ~~(7)~~ Not block the passage of the public through a public area on the sidewalk in order to maintain public order and convenience, with blockage or obstruction to such public way being dispersed by police upon complaint to allow passage of the public.
- ~~(d)~~ ~~(8)~~ Not offer for sale any merchandise at any designated location.
- ~~(e)~~ ~~(9)~~ Not use electrical and extension cords of any kind in light of public safety concerns; but may use battery-powered microphones and/or amplified speaker(s) so long as such equipment is used in compliance with *South Bend Municipal Code* § 3-8 addressing "Advertising with music for commercial purposes prohibited" and *South Bend Municipal Code* § 3-57 addressing "Unreasonable noise".
- ~~(f)~~ ~~(10)~~ May accept monetary donations, while performing with such donations not being considered as a prohibited act under *South Bend Municipal Code* § 13-26 so long as ~~the busker has registered under subpart (d) of this Section and if~~ solicitation is not done in an aggressive manner which recklessly interferes with pedestrian safety and/or vehicular traffic.
- ~~(g)~~ ~~(11)~~ Not be performing within such distance of any street corner, marked pedestrian crosswalk, entrance to any building, driveway, curb cut, outdoor eating area, emergency exit, kiosk, or ATM machine, which is reasonably likely to cause obstruction or blockage of the free and safe movement of pedestrians or which would reasonably likely cause the site vision needed for the safety of motor vehicle drivers to be blocked. A distance of twenty feet is recommended between a busker/street performer and the foregoing specified locations.

(h) (12) Not perform within such a distance from another busker or sidewalk performer so as to reasonably likely cause congestion of spectators which would impede emergency medical, law enforcement or safety officers from access to the area or which would make it unreasonably difficult for pedestrians to freely and safely pass through the area. A distance of forty feet between each busker/street performer is recommended.

(i) (13) Not have any equipment or items used for performing which obstructs or blocks the free and safe movement of pedestrians or blocks the site vision for the safety of motor vehicle drivers; with all stages and platforms being prohibited. No equipment or items used for performing shall be left unattended by the busker or sidewalk performer.

(j) Provide information necessary to truly and correctly identify the busker or street performer to any and all persons authorized to enforce this Section when the authorized person has probable cause to believe that a violation of the ordinance has occurred.

~~(d) Permit Conditions: All persons who are to be issued a permit under this section shall:~~

~~(1) Be authorized to perform for the calendar year for which the permit is issued, except on dates which are excluded.~~

~~(2) Be authorized to perform at a designated location on a first come first serve basis.~~

~~(3) Be authorized to perform on Mondays through Thursdays from 8:00 a.m. to 9:00 p.m. and from 8:00 a.m. to 11:00 p.m. on Friday through Sundays.~~

~~(4) Be required to pay the permit fee of twenty dollars (\$20.00) for said calendar year.~~

~~(5) Be required to prominently display the permit issued while performing.~~

~~(6) Not be required to get a permit under *South Bend Municipal Code* § 13-57 (d) "Permit for playing noncommercial music in public places".~~

~~(7) Not block the passage of the public through a public area on the sidewalk in order to maintain public order and convenience, with blockage or obstruction to such public way being dispersed by police upon complaint to allow passage of the public.~~

~~(8) Not offer for sale any merchandise at any designated location.~~

- ~~(9) Not use electrical and extension cords of any kind in light of public safety concerns; but may use battery powered microphones and/or amplified speaker(s) so long as such equipment is used in compliance with *South Bend Municipal Code* § 3-8 addressing “Advertising with music for commercial purposes prohibited” and *South Bend Municipal Code* § 3-57 addressing “Unreasonable noise”.~~
- ~~(10) May accept monetary donations while performing with such donations not being considered as a prohibited act under *South Bend Municipal Code* § 13-26 so long as the solicitation is not done in an aggressive manner which recklessly interferes with pedestrian safety and/or vehicular traffic.~~
- ~~(11) Not be performing within twenty feet (20’) of any street corner, marked pedestrian crosswalk, entrance to any building, driveway, curb cut, outdoor eating area, emergency exit in order to not obstruct or block the free and safe movement of pedestrians or block the site vision needed for the safety of motor vehicle drivers.~~
- ~~(12) Not perform less than fifty feet (50’) from another busker or sidewalk performer.~~
- ~~(13) Not have any equipment or items used for performing which obstructs or blocks the free and safe movement of pedestrians or blocks the site vision for the safety of motor vehicle drivers; with all stages and platforms being prohibited. No equipment or items used for performing shall be left unattended by the busker or sidewalk performer.~~

~~(c) Permit Non Transferable: All permits issued under this section are non-transferable.~~

Sec. 14-125. Days Excluded from Performing.

~~(d)(f) Days Excluded from Performing: Annual special events taking place in the Central Business and Entertainment Area and other events requiring the use of sidewalks in this Area to shall take precedence over buskers and sidewalk performers. The Clerk to the Board of Public Works shall be responsible for notifying all persons seeking a permit under this section maintaining a list of such annual and other special event dates, which shall also be posted on the City’s website within and at least seventy-two (72) hours’ notice of new events which are approved requiring the use of such designated areas prior to any such event. Buskers and sidewalk performers shall not perform on those days during the hours when, and at the locations where, the designated special event(s) takes place unless they have been authorized to perform by the event organizer. Buskers and sidewalk performers may perform at regular hours during the special event day in those portions of the Central Business and Entertainment area which are not part of the designated area of the special event.~~

~~(e)(g) Refusal to Issue Permit; Suspension or Revocation of Permit: The City may refuse to issue a permit, and any permit issued under this Section may be suspended or revoked. Such actions shall be governed by Section 4-16 of the South Bend Municipal Code.~~

Sec. 14.126. Penalties.

~~(e) (f) (h) Penalties:~~ Any person violating any provisions of this Section shall be issued an ordinance violation citation. Penalties shall be one hundred dollars (\$100.00) for the first violation; two hundred fifty dollars (\$25200.00) for the second violation and five hundred dollars (\$500.00) for all violations thereafter. Payment of penalties up to two hundred fifty (\$25200.00) shall be made through the Ordinance Violations Bureau. Failure to make payment within thirty (30) days of the issuance of the citation shall result in a late fee of an additional fifty dollars (\$50.00) for every thirty (30) days it remains unpaid.

~~(i) — Any person who is issued a permit under this Section in 2013, said permit shall also be valid throughout the 2014 calendar year.~~

Section III. Chapter 13, Article 12, Section 13-26 of the South Bend Municipal Code be and hereby is amended to read as follows:

Sec. 13-26. Prohibited acts.

- (a) In light of the City's duty to provide residents and visitors to the downtown of the city with a safe environment where social, business, cultural, and recreational opportunities can be maximized while eliminating nuisance activities which negatively affect such interactions, the following regulation shall be in full force and effect:
- (1) Except as otherwise provided in section 13-26(a) (2) and section 13-26(a) (3) below, Solicitation is prohibited in the Central Business and Entertainment Area (CBEA).
 - (2) Solicitation of immediate donation of money or other thing of value or the sale of goods or services that (i) is performed by a person who is a "licensee" (as defined in section 4-2(c) of this Code) under section 4-55, Charitable solicitations, busker or street entertainment under Chapter 14, Article 13 of this Code and (ii) consists of actions permissible under the regulations set forth in section 4-55, Charitable solicitations, and (iii) is fully compliant with the provisions of section 13-26(b), shall be excluded from the prohibition set forth in section 13-26(a)(1) above.
 - (3) Solicitation of the sale of goods or services that (i) is performed by a person who is a "licensee" (as defined in section 4-2(c) of this Code) under one or more of the sections of this Code listed below, and (ii) consists of actions permissible under the regulations set forth therein, and (iii) is fully compliant with the provisions of section 13-26(b), shall be excluded from the prohibition set forth in section 13-26(a)(1) above:
 - a. Section 4-25: Food vending vehicles,
 - b. Section 4-43: Peddlers and canvassers,
 - c. Section 4-60: Transient merchants.

(b) Because solicitation in an aggressive manner creates a reckless interference with pedestrians and vehicular traffic in public places, the following regulations shall be in full force and effect:

- (1) Solicitation in an aggressive manner is prohibited in any public place.
- (2) Solicitation in an aggressive manner is prohibited within twenty (20) feet of any Automated teller machine (ATM).
- (3) Solicitation in an aggressive manner is prohibited within twenty (20) feet of any pay telephone.
- (4) Solicitation in an aggressive manner from an operator or occupant of a motor vehicle located in any public place is prohibited.

Section IV. Severability Clause: If any subsection, sentence, clause, phrase or word of this ordinance is declared to be unconstitutional or otherwise invalid by a Court of proper jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

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

Member, South Bend Common Council

Attest:

City Clerk

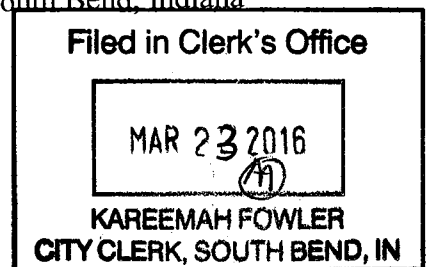
Presented by me to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 2____, at _____ o'clock ____ . m.

Deputy City Clerk

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

Mayor, City of South Bend, Indiana

1st READING
PUBLIC HEARING
3rd READING
NOT APPROVED
REFERRED
PASSED



MAY 23 2001
CITY CLERK'S OFFICE
SOUTH BEND, IN

Exhibit A-1 Central Business and Entertainment Area



--- Central Business and Entertainment Area Boundary
... South Bend Central Development Area Boundary
■ Panhandling and Solicitation Regulation Area

Filed in Clerk's Office
MAR 23 2016
KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN