
CHAPTER 2 ADMINISTRATION

ARTICLE 1. THE COMMON COUNCIL

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

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

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

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

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

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

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

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- (c) The Council shall exercise any power or perform any function necessary and in the public interest in conducting the municipal and internal affairs, which are not inconsistent with the provisions of this Code or with the Constitution or Laws of the United States or the State of Indiana.
 - (d) The Council shall have the power to adopt local laws deemed necessary for the effective operation and conduct of government with respect to municipal and internal affairs; and shall provide for the enforcement of such laws and prescribe violation and punishment thereto.
 - (e) The Council shall have the authority to request or compel attendance of Council Members, other officers of the City, and other witnesses; and may require the production of documents germane to matters being considered at meetings of the Council.
 - (f) The Council may discipline any member of the public who causes or attempts to cause disorder or undue delay during a Council meeting. The Chairperson shall call the citizen to order by a verbal reprimand. If removal of the citizen is deemed necessary, a vote of two-thirds ($\frac{2}{3}$) of the Council Members present shall authorize removal of said citizen from the meeting.
 - (g) The Council shall have the power to discipline Council Members.
 - (h) The Council shall have the power to pass all ordinances, orders, resolutions and motions for the government of the City; for the control of its property and finances; and for the appropriation of money.
 - (i) The Council shall have the power to financially supervise and investigate all departments, officers and employees of the City and to examine any charge preferred against a department, officer, or employee of the City, and to investigate the affairs of any person with whom the City has entered or is about to enter into a contract.
 - (j) The Council shall have the power to manage the finances of the City subject to the powers and duties vested in the executive departments.
 - (k) Each Council Member shall file a written report with the City Clerk within fourteen (14) days after attending any meeting, conference or seminar where public funds are used to finance his or her attendance. The report shall include the following information: Name, date and place of meeting, conference or seminar; principal speakers and topics covered; brief descriptive narrative of the subject matter discussed; indication of whether written handouts are available; and name of Council Member in attendance.
 - (l) The annual amount of money budgeted for travel and promotional expenses and instruction in the Common Council budget shall be divided equally among the nine (9) Council Members. Any monies not used pursuant to such division may be allocated to another Council Member upon his or her request, with informal Council approval. Council Members using such funds shall comply with subsection (k) of this section. The City Clerk shall maintain an ongoing accounting of all such travel, promotional, and instruction expenses by each Council Member of each calendar year.
 - (m) All Council appointments to various boards, commissions, and committees shall be made by the President of the Common Council ~~which-and~~ takes office the calendar year for which the term(s) for such initial or renewal appointments(s) begin, except as provided by section 2-10 regarding citizen appointments to standing committees of the Common Council.

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

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

- (a) The members of the Common Council shall hold their first regular meeting on the first Monday of January after their election at 7:30 p.m. in the Council Chambers. This meeting shall take place at 5:00 p.m. on the first Monday of each succeeding January thereafter.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) The presiding officer or President of the Common Council, after being duly elected pursuant to section 2-3 of this Code, and after taking the oath of office, shall take the chair and preside over all regular, special and informal meetings of the Council.

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

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

Sec. 2-7. Duties of City Clerk as Clerk of Council.⁶

- (a) The City Clerk shall be the Clerk of the Common Council.
- (b) The City Clerk shall be elected by the voters of the City at the time and in the same manner as other City officers are elected. The term of office shall commence on the first day of January following his ~~the~~ Clerk's election and shall continue for four (4) years thereafter.
- (c) The Clerk, or a designated representative of the Clerk's Office, in addition to the powers and duties enumerated in section 2-14 of this Code, shall attend all regular and special meetings of the Council and shall keep an accurate journal of the proceedings of the Council and exercise and perform the powers and duties as provided and prescribed by law, this Code or ordinances. The City Clerk's Office shall prepare minutes without consultation ~~of~~ with anyone not a part of said office.

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

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

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

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- (d) The Clerk shall call the roll at the beginning of each session of the Council and on the ~~passage-vote~~ of every ordinance and resolution and ~~on all other votes~~, whenever requested by two (2) members on any other votes and record the ayes and nays by Council Member name in the minutes.
 - (e) The Council Members shall be called in the following order: First, the District Council Members in the order of their districts; next the Council Members-at-Large in alphabetical order; last, the presiding officer. On all requested roll call votes when sitting as Committee of the Whole, on all third readings of bills, and on all resolutions, the Clerk shall call the roll rotating the call of each Council Member by one position.⁷
 - (f) The Clerk shall provide and maintain in the City Clerk's Office a supply of forms for all matters required to be filed with the City Clerk.
 - (g) The Clerk shall have the power to administer oaths of office.
 - (h) The Clerk shall make available to the press and any other interested person, upon request, all public information which is available concerning the subjects to be discussed at any regular, special or informal ~~meeting~~meetings of the Council, and shall also make available the time, date and place of such meetings.
 - (i) Upon the request ~~by the President of the Council or the Chair Person or a Council committee~~of any Council Member or the Council Attorney on behalf of any Council Member, the Office of the City Clerk shall provide other supportive clerical assistance and other related services to the Council, its standing committees, and such other committees which include Council representatives. Such services shall be provided to further effectuate the necessary obligations, responsibilities and duties required of the Council Members and to further the effective and efficient operation of the Council.
 - (j) The City Clerk's Office shall maintain all minutes of the standing and special committees of the Common Council which are duly filed with said office by the ~~Chair Person~~Chairperson of the Committee. The minutes shall be maintained with the notices of such meetings in a separate and permanent folder for each committee. All folders shall be open for public inspection and available for copying at a reasonable cost to members of the public.

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

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

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

~~(Ord. No. 6114-77, § 1)~~

Sec. 2-7.2. Council attorney.

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

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

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

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

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

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

the question in debate, and avoid personality, the presiding officer shall not recognize any Council Member as in order, unless he or she is in his or her proper seat.

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

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

- (q) As used in this Article, "electronic device" means a wireless and/or portable electronic handheld piece of equipment that includes, but is not limited to, existing and emerging mobile communication systems and smart technologies (cell phones, smart phones walkie-talkies, pagers, etc.) portable internet devices (mobile managers, mobile messengers, BlackBerry T handset, etc.) Personal Digital Assistants (PDAs), (Palm organizers, pocket PCs, etc.) and any other convergent communication technologies that do any number of the previously mentioned functions. "Electronic device" also includes any current or emerging wireless handheld technologies or portable information technology systems that can be used for word processing, wireless internet access and information transmitting/receiving, etc. Tape recorders and cameras ~~and~~²

~~hearing and hearing~~ aids³ shall be excluded from the definition of "electronic devices" as used in this Article. Emergency communication devices used by sworn police officers and medical first responders who are in attendance of a Common Council or Standing Committee meeting shall be in excluded from the provisions of this Article.

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

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

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

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

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

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

Sec. 2-9. Parliamentary procedure for the Common Council.⁸

- (a) The most recent edition of Robert's Rules of Order shall be the authority on all questions of parliamentary law and procedure not specifically covered by this article. For the purposes of this article, parliamentary law shall mean the enacted rules and recognized usages which govern the procedure of legislative assemblies.
- (b) A majority of all the Council Members shall constitute a quorum for the transaction of business of the Council. It shall require a majority vote of all the Council Members to pass an ordinance or resolution. Whenever by law it is required that any ordinance or resolution shall be passed by a two-thirds ($\frac{2}{3}$) vote, such requirement shall be construed to mean a two-thirds ($\frac{2}{3}$) vote of all Council Members.
- (c) No one not a member of Council shall be permitted to address the same, except upon invitation by the presiding officer or by a majority vote of the Council.
- (d) No ordinance or resolution shall be received or considered by the Council unless it is presented by some member thereof, a duly authorized member of the City Administration, or as provided by law.
- (e) Every motion made by any member of the Council and entertained by the presiding officer shall be reduced to writing on the demand of any member.

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

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- (f) When a motion has been made, the presiding officer shall state it, or if in writing, ~~he or she~~ shall cause it to be read aloud by the Clerk before being debated; and it shall then be in the possession of the ~~Council~~, ~~but Council but~~ may be withdrawn at any time before a decision or amendment.
- (g) Abstention: When in order to enact an ordinance, resolution or motion, State law requires a majority of the Council to vote "aye," the following procedures shall be applicable in calculating said majority:
- (1) Only Council Members who have disqualified themselves on a matter due to a substantial conflict of ~~interest, or interest or~~ have disclosed fully the nature of their conflict of interest pursuant to the provisions of this article are entitled to an abstention.
 - (2) Abstentions shall not be counted as either an "aye" or "nay" vote.
- (h) The presiding officer shall decide whether any question is carried by affirmative or a negative vote; but if ~~he or she~~ the presiding officer is in doubt, and the "ayes" and "nays" or a division be called for, the presiding officer shall call for a roll call vote.
- (i) When a question is under debate, no motion shall be received, but to adjourn, for the previous question (which motion shall be decided without debate), to lay on the table, to postpone to a day certain, to refer, to amend, or to postpone indefinitely, which several motions shall have preference in the order in which they are here arranged.
- (j) The motion to adjourn and the motion to fix a time to which the Council shall adjourn shall always be in order, the latter motion taking precedence over the former.
- (k) The motion to lay an amendment on the table shall not affect the subject which it is proposed to amend.
- (l) A "call for question" motion shall be proper after each member present has had the opportunity to address the specific issue under debate. Said motion shall not require a second and upon such a motion all debate shall cease. The presiding officer shall then repeat the "call for question" motion pending before the Council and ask for a voice vote on said issue.
- (m) The motion to postpone to a day-date certain can be amended by altering the time.
- (n) The motion to commit may be amended by altering the committee or by giving instructions.
- (o) A motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one (1) amendment may be offered, but neither may be withdrawn before amendment or decision is had thereon.
- (p) No motion or proposition postponed indefinitely shall be taken up again at the same or next succeeding meeting.
- (q) A question shall be divided on the demand of any member, if it includes two (2) or more distinct propositions.
- (r) A motion to strike out and insert shall be indivisible, but a motion to strike out being lost shall neither preclude amendment, nor motion to strike out and insert, and no motion or proposition on a subject different from that under consideration shall be submitted under color of amendment.
- (s) Motion to reconsider: When a motion has been made and carried or lost, it shall be in order for any member of the majority at the same or the next regular meeting, to move for the reconsideration thereof. Such a motion upon being made may be seconded by any Council Member and may be made at any time. It shall be debatable and requires a majority vote to prevail. No such motion shall be introduced at a subsequent ~~meeting, unless meeting unless~~ the member intending to make the same shall have given written notice of such intention at the meeting at which the vote which he or she desires to have reconsidered was taken.
- (t) When a resolution is offered or a report or other matter presented, the presiding officer may take the reception thereof for granted, unless objection be made, when a formal motion shall be required.
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- (u) Appeals, questions of order, objections to the consideration of a question, the reading of papers, leave to withdraw a motion and suspension of the rules are questions which shall take precedence over and be decided before the question which gave rise to them; which several questions cannot be amended, and all questions of order which may arise pending a question which is not debatable must be decided without debate.
 - (v) Form of ordinances and resolutions: All legislation of the City shall be by ordinance or by resolution. The word "resolution" as used in this chapter shall be the official action of the Council, and shall be limited to matters authorized by local, State or Federal law, and to matters pertaining to the internal affairs or operations of City Government. All resolutions shall be assigned a bill number by the City Clerk's office upon being properly filed with the City Clerk's office. Each resolution must have a short title identifying the subject matter of the resolution, followed by "whereas" clauses which set forth the background information of the resolution. Following the end of the "whereas" portion, the next paragraph shall begin with the words "Now, therefore, be it resolved by the Common Council of the City of South Bend, Indiana, as follows:" and a section by section format shall follow thereafter. If the resolution is adopted by the Common Council and approved by the Mayor, the City Clerk's Office shall assign it a resolution number.

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

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

- (1) Each bill filed for ordinance consideration shall begin after a preliminary "Statement of Purpose and Intent" which shall set forth the overall purpose(s) of the bill, as well as relevant background information addressing governing local, State or Federal law or policies. Following the end of the statement of purpose and intent, the next paragraph shall begin with the words: "Now therefore, be it ordained by the Common Council of the City of South Bend, Indiana, as follows:" with a section by section format following thereafter.
- (2) All bills filed for ordinance consideration which propose to amend the South Bend Municipal Code must include a detailed summary of the proposed changes in the statement of purpose and intent. All such bills must use one (1) of the following formats:
 - a. Following the statement of purpose and intent section, the introductory sentence to the first section must include the words "Chapter _____, Article _____, Section _____, of the South Bend Municipal Code shall be amended to read in its entirety as follows"; or
 - b. Following the statement of purpose and intent section, the introductory sentence to each section of the South Bend Municipal Code which proposes new language must set forth the proposed new language in bold type or may underline such proposed new language, and must show the deletion of current words with a dash through such language, so long as that utilizing this format does not cause undue confusion.
- (3) Any bill ~~wishing submitted~~ to be considered for ordinance consideration which does not conform to the applicable requirements of this section may be rejected by the City Clerk's Office when presented for filing. Any non-conforming bill not rejected by the City Clerk's office may be rejected by the Council President and/or the Chairperson of the standing committee having jurisdiction over the substance of the bill.

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- (4) All proposed resolutions and ordinances must be accompanied by a separate cover letter from the party initiating such resolution or ordinance. Each such letter must clearly identify the salient points of the proposed resolution or ordinance, and must identify the person who will be giving the presentation at the public hearing, if different from the person signing the letter. Any proposed resolution or ordinance which is not accompanied by such a letter may be rejected by the City Clerk's Office when presented for filing.
- (5) ~~Proposed resolutions~~ Resolutions or ordinances proposed by the City Administration should when at all possible and in the interest of furthering better communications between the administrative and legislative branches, have the proposed resolution or ordinance signed by the Chairperson of the Standing Committee which has jurisdiction over the subject matter addressed in the proposed legislation.
- (6) Resolutions or ordinances proposed by one or more Council members should, when at all possible and in the interest of furthering better communications between Council members and expediting consideration of bills, have the proposed resolution or ordinance reviewed and signed by the Chairperson of the Standing Committee which has jurisdiction over the subject matter addressed in the proposed legislation. Any such proposed resolution or ordinance not signed by the Chairperson of the Standing Committee which has jurisdiction over the subject matter addressed in the proposed legislation will not be considered by a Standing Committee or the Council unless three (3) or more Council members are cosponsors of the bill.
- (67) The party initiating any legislation which is amended during the Common Council's public hearing, must file a complete original of such amended legislation with the Office of the City Clerk, by the next business day.
- (78) If the proposed ordinance is passed by the Common Council and approved by the Mayor, the City Clerk's Office shall assign it an ordinance number.
- (89) Any substitute proposed resolution or substitute proposed ordinance filed with the City Clerk for Council consideration which is filed to replace an original filing with that office, must be accompanied with a cover letter which summarizes the changes being recommended in the substitute version.
- (910) The signatory section for a bill or proposed resolution shall read as follows:

Member of the Common Council

Attest:

City Clerk

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

City Clerk

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

Mayor of the City of South Bend, Indiana

- (w) Every bill filed for ordinance consideration shall be read a total of three (3) times by title by the Clerk. If a bill's title was amended in the Committee of the Whole, the amended title shall be read by the Clerk at third reading. No bill shall be read the third time at the same meeting it is introduced unless by unanimous roll call

vote of all Council Members present. Additionally, there must be at least two-thirds ($\frac{2}{3}$) of the entire Council present to carry such a motion.

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

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

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

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

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

(~~z~~aa) The third reading of the bill shall be by title, after which the presiding officer shall state that "This is the third reading of the bill, the question is shall the bill pass?"

(~~a~~abb) Any bill may be stricken from the files at any time before passage by a two-thirds ($\frac{2}{3}$) vote of all members elected.

(~~b~~bcc) Any bill failing to receive a sufficient number of votes on final passage will be considered as lost and stricken from the files, provided the vote is not reconsidered, as authorized by subsection(s) of this section.

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- (~~ee~~~~dd~~) All votes upon the passage of bills and resolutions, and upon motions to suspend the rules or motions to reconsider shall be by roll call.
- (~~de~~~~ee~~) When a resolution is introduced, it shall be read by title only, after which, if there is no objection, it shall stand ready for adoption following its public hearing. If there is objection, it shall be in order for any member to make a proper motion for disposition of the resolution.
- (~~ee~~~~ff~~) No proposition to rescind or change any standing rule or order of the Common Council shall be passed at the same meeting it is submitted; nor shall any proposition having the force and effect of a bylaw or a standing rule or other relating to the government of the Council or the duties of any of the City officers by passed except in the form of an ordinance and according to the forms prescribed for the passage of ordinances.
- (~~ff~~~~gg~~) Effective date: The effective date of all bills shall be prescribed therein; however, no bill prescribing a penalty or forfeiture for a violation shall become effective before publication in the manner prescribed by IC 36-4-6-14(b) or (c).
- (~~gg~~~~hh~~) Severability: Unless a bill shall expressly provide to the contrary, if any portion of a bill or the application thereof to any person or circumstances shall be found to be invalid by a court of competent jurisdiction such invalidity shall not affect the remaining portion or application, provided such remaining portions or applications are not determined by the court to be inoperative and to this end bills are declared to be severable.
- (~~hh~~~~ii~~) The presiding officer may, upon a member of the public being recognized to address the Council, limit him or her to no more than five (5) minutes, unless a majority of the Council Members present vote to extend such period.
- (~~ii~~~~jj~~) Each member of the public who wishes to be recognized by the presiding officer in order to speak during a public hearing, must give his or her name and address for the record.
- (~~jj~~~~kk~~) No member of the public may speak twice on the same issue unless a majority of the Council Members present vote to allow such a second presentation. A three-minute limit shall apply to such a second presentation.

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

~~Sec. 2-9.1 Reserved.~~

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

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

- (a)—There shall be eleven (11) standing committees organized within the Common Council. Each standing committee, except the Council Rules Committee, shall consist of not less than three (3) Council Members. Council Members shall be appointed to each committee by the Council President at the beginning of each calendar year.
- (b)—Each standing committee, except the Council Rules Committee, shall have not less than one (1) citizen member and at no time shall the number of citizen members constitute more than one third (1/3) of the total membership of each standing committee.
- (c)—A person desiring to serve as a citizen member of any of the Council's standing committees, except the Council Rules Committee, must have been a resident of the City of South Bend for not less than one (1) year

prior to being considered for appointment. City residency shall be a continuing requirement for membership on all such standing committees. Citizen members shall serve without compensation for one-year terms, with each appointment expiring by the first meeting of the succeeding calendar year of such appointment.

- (d) Citizen members shall be appointed by the Chairperson of each standing committee. In making such appointments, the Chairperson shall assure that the citizen members are broadly representative of the South Bend Community.
- (e) The Chairperson, with the assistance of the City Clerk or his designee, shall be responsible for filing Committee minutes with office of the City Clerk within two (2) weeks after each committee meeting. Such minutes shall comply with the Open Door Law and shall include but not be limited to:
 - (1) The date, time and place of the meeting;
 - (2) Persons in attendance;
 - (3) Summary of all items discussed including all references to proposed resolution and ordinances referred to it for review and recommendation;
 - (4) A record of all votes taken; and the time of adjournment.Any documents submitted to a Committee shall be filed with the original of the committee minutes with the Office of the City Clerk. Any majority or minority reports filed with a Committee shall also be attached to such Committee minutes. Upon the approval and signing of such minutes by the Committee Chairperson, the Office of the City Clerk shall see that the minutes are properly posted on the Common Council's website.
- (f) The Office of the City Clerk shall send to each citizen member notices of all Committee meetings to which they are appointed, along with copies of proposed resolutions or ordinances sent to such Committee for review and recommendation no later than two (2) business days prior to the Committee meeting.
- (g) Any citizen member vacancy of a standing committee shall be filled for the unexpired term in the same manner as the original appointment. A vacancy shall be deemed to exist upon the occurrence of any one (1) of the following conditions:
 - (1) If a citizen member moves his or her permanent place of domicile out of the City of South Bend, dies, resigns, or for any reason refuses to serve during the period for which he or she was appointed; or
 - (2) If a citizen member fails to attend and participate in the meetings of the standing committee as may be determined by the Committee Chairperson in consultation with the Council President.
- (h) All duly appointed citizen members shall have the right to make appropriate motions at Committee meetings and participate in Committee discussions. All such citizen members shall have the right to vote on all matters coming before the Committee to which he or she has been appointed.
- (i) There shall be eleven (11) standing committees of the South Bend Common Council. These committees and their area of jurisdiction are as follows:
 - (1) Parks, Arts, Recreation and Culture (PARC) Committee: Overseeing the various activities of the Century Center, Regional Museum of Art, College Football Hall of Fame, Morris Performing Arts Center, Department of Parks and Recreation, Studebaker Museum and related activities.
 - (2) Community Investment Committee: Overseeing the various activities of the Community Investment Department and programs directed by this Department.
 - (3) Community Relations Committee: Overseeing the various activities of the Office of Community Affairs and the relationships and ongoing communications with other public and private entities operating within the City of South Bend. The Chairperson of the Community Relations Committee shall schedule not less than two (2) committee meetings each calendar year inviting the superintendent, school trustees of the South Bend Community School Corporation Board of Trustees, their committees or

designated representatives and other nonpublic school officials operating within the City of South Bend to discuss school/community relations. The Chairperson may schedule any additional meetings in a calendar year on school/community relations as he or she deems appropriate. The Chairperson shall additionally schedule committee meetings with the Residential Neighborhoods Committee to receive and discuss information from the Community/Campus Advisory Coalition (CCAC) and all City agencies, offices and departments involved with public safety regulations, as further addressed in Section 14-60 of the South Bend Municipal Code.

- (4) ~~Council Rules Committee: Overseeing rules and regulations governing the operation of the South Bend Common Council, as well as all matters of public trust as more specifically set forth in Section 2-10.1 of the Municipal Code and applicable State and Federal laws.~~
- (5) ~~Health and Public Safety Committee: Overseeing the various activities performed by the Department of Code Enforcement, EMS, Fire Department, Police Department, ordinance violations and related public health and safety issues.~~
- (6) ~~Information and Technology Committee: Overseeing the various activities of the City's information technologies so that all computer systems, websites, and related technologies are maintained and upgraded so as to remain competitive and up to date with current industry standards.~~
- (7) ~~Personnel and Finance Committee: Overseeing the various activities performed by the Department of Administration and Finance, salaries, budgets, fiscal matters and personnel policies and procedures of the City.~~
- (8) ~~Public Works and Property Vacation Committee: Overseeing the various activities performed by the Building Department, the Department of Public Works and related public works and property vacation issues.~~
- (9) ~~Residential Neighborhoods Committee: Overseeing the various activities of the Neighborhood Partnership Centers and issues related to neighborhood development and enhancement.~~
- (10) ~~Utilities Committee: Overseeing the various activities of all enterprise entities including, but not limited to the Bureau of Waterworks, Bureau of Sewers and all related entities.~~
- (11) ~~Zoning and Annexation: Overseeing the various activities related to the Board of Zoning Appeals, Area Plan Commission and the Historic Preservation Commission as well as all related matters addressing annexation and zoning.~~

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

The Chairperson, with the assistance of the City Clerk, or his or her a authorized representative from the Office of the City Clerk, shall be responsible for filing Committee minutes with the Office of the City Clerk within two (2) weeks after each committee meeting. Such minutes shall comply with the Open Door Law and shall include but not be limited to: (1) the date, time and place of the meeting; (2) persons in attendance; (3) summary of all items discussed including all references to proposed resolutions and ordinances referred to in it for review and recommendation; (4) a record of all votes taken; and the time of adjournment. Any documents submitted to a Committee shall be filed with the original of the committee minutes with the Office of the City Clerk. Any majority or minority reports filed with a committee shall also be attached to such committee minutes.

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

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

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

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

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

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

the Council Member alleged to have committed the violation. The committee shall determine in a nonpublic executive session whether the complaint alleges facts sufficient to constitute statutory violation. In making such determination the committee shall:

- (1) Determine by the affirmative vote of the majority of the committee that the complaint fails to allege specific facts which if proven, would constitute a violation of the rules and regulations;
- (2) Refer the complaint to the proper legal advisor or other person designated by the committee for such purpose, who shall perform a preliminary investigation and report back to the committee as soon as possible for their next meeting, where a recommendation as to the nature and scope of any further action on the case is then made.

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

- (h) *Hearings:* If the committee determines a public hearing is to be held, the Council Member respondent shall be allowed to examine and make copies of all evidence in the committee's possession relating to the charge(s). At the hearing, the committee shall receive testimony and evidence and the charged party shall be afforded appropriate due process protection, including the right to be present at the hearing, the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross-examine opposing witnesses. All witnesses shall be sworn unless the Chairman, for good cause, decides that a witness does not have to be sworn.
- (i) *Written report:* After the hearing, the committee shall make a written report of whether or not there was competent, sufficient and substantial evidence of a Code or statutory violation. Such report shall be supported and signed by a majority of committee members. If the committee determines that the Council Member respondent has not violated a Code or statutory provision, it shall dismiss the charge(s). If a violation is found by the committee, the committee shall then recommend appropriate sanction(s) to the Common Council.
- (j) *Council action:* The Common Council shall consider and act upon each report from committee within ten (10) days after receipt thereof and make its findings known at a regular or special Council meeting. In making such a determination, the Council shall:
 - (1) Have the City Clerk send copies of the report and findings to each Council Member as soon as practicable;
 - (2) Not receive any testimony or other evidence but may remand a case to the committee for the taking of additional testimony with specific instructions as to what additional evidence or other testimony is needed;
 - (3) In its discretion hear opinions from the public present at said meeting, however, these opinions shall not be regarded as evidence;
 - (4) Affirm, modify or reject committee's findings as to whether or not a violation was committed;
 - (5) Upon modification or rejection of committee's findings, file a written report setting forth the Council's findings and reasons therefor;
 - (6) Not be bound to follow committee's recommendations as to sanctions.

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- (k) ~~*Sanctions:* Upon finding that a Council Member-respondent violated the code of conduct of the Common Council; or if a Council Member violated any other provision of this Code, the Council, by a majority vote, may take any or none of the following actions:~~
- ~~(1) Issue a private censure;~~
 - ~~(2) Issue a public censure;~~
 - ~~(3) Recommend to the Council Member-respondent or to a Council Member who violated any other provision of this Chapter, that he or she resign his or her position on a standing and/or special committee;~~
 - ~~(4) Recommend to the Council Member-respondent or to a Council Member who violated any other provision of this Chapter, that he or she resign from his or her office of Council Member;~~
 - ~~(5) Have the City Clerk, or his or her authorized representative from the Office of the City Clerk, take possession of any electronic device for the duration of the public meeting, from any Council Member or Standing Committee Member, who continues to use such electronic device in violation of Subsection 2-8(p) of the South Bend Municipal Code, after refusing to comply with a verbal request given by the presiding officer of such meeting to such member.~~
 - ~~(6) Refer the matter to the County Prosecutor's Office for appropriate action; or~~
 - ~~(7) Refer the matter, by a vote of two-thirds (⅔) of the Council for expulsion from the Common Council.~~
- (l) ~~*Advisory opinions:* Upon written request of any Council Member, the committee shall render an advisory opinion within thirty (30) days after receipt of the request on any question relating to possible conflicts of interest and misconduct affecting the Council Member's official function. A majority of the members of the committee shall concur in the opinion to be rendered. The committee shall maintain a permanent record of all opinions so rendered. Upon any advisory opinion being submitted to the Council at a general meeting, the Council shall affirm, modify or reject the committee's opinion giving reasons for any modifications or rejection. A Council Member shall not be held to have violated the standards of ethical conduct if he or she acted in reasonable and good faith reliance upon an advisory opinion duly affirmed by the Council.~~
- (Ord. No. 6114-77, § 1; Ord. No. 7929-88, § 1; Ord. No. 10080-11, § III, 4-11-11)

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

- (a) A Committee of the Whole of the Common Council shall be formed at the first organizational meeting after their election and at each annual reorganizational meeting thereafter, by the members choosing by majority vote of all Council Members and from their number, a Chair Person of such committee, which Chair Person shall serve for a one-year term. He or she shall preside at all meetings of such committee and in his or her absence, the Vice-President shall preside.
- (b) All bills, for ordinance consideration, resolutions and matters committed to such Committee of the Whole shall be read by the Clerk. The Clerk shall enter upon a separate paper all changes or amendments agreed upon by the committee, and reports of proceedings of such committee shall be made to the Council verbally.
- (c) The Rules of Procedure of the Council shall be observed (as well as parliamentary law) in such Committee of the Whole, so far as the same may be applicable, but no member shall speak more than twice on any question until every member choosing to speak shall have spoken.
- (d) Public hearings on all bills for ordinance consideration and proposed resolutions and petitions shall be conducted as follows:

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- (1) The Chairperson of the Committee of the Whole shall briefly explain the procedures which will be followed for all public hearings on bills filed for ordinance consideration at the first regular Council meeting of each year. This shall be done immediately prior to the first bill scheduled for public hearing. At each regular and special meeting thereafter, the Chairperson of the Committee of the Whole shall announce that the procedures governing public hearings are available to the public in pamphlet form which are located next to the Council agendas at each meeting.
 - (2) The Council President shall briefly explain the procedures to be followed for all public hearings on all proposed resolutions at the first regular Council meeting of each year. This shall be done immediately prior to the first resolution scheduled for public hearing. At each regular and special meeting thereafter, the Council President shall announce that the procedures governing public hearings on proposed resolutions are available to the public in pamphlet form.
 - (3) The following procedures apply to public hearings:
 - i. The City Clerk shall read each Bill by title only.
 - ii. The Chairperson of the Council's Standing Committee to which the Bill was sent shall give a report on the recommendation from that Committee.
 - iii. Reports from the Area Plan Commission or the Board of Zoning Appeals shall be given, when applicable.
 - iv. A formal presentation on the Bill shall be made, which is not subject to a time limitation. Common Council Members shall have the right to ask preliminary questions to the presenter(s) immediately following the close of the formal presentation on the Bill. Members of the public supporting the Bill shall have the opportunity to address the Council. Each member of the public shall be required to state his or her name and residential address; or in the case of a proposal made on behalf of an entity other than a natural person or on behalf of a group of individuals, that person and/or their agent shall state his or her name and business address for the record prior to making remarks in support of the Bill. In some instances, each member of the public may also be required to sign a sheet at the public podium which calls for the listing of his or her name and residential address prior to speaking. Each member of the public speaking in favor of a Bill shall be limited to five (5) minutes for his or her presentation.
 - v. If there is a formal presentation against the Bill under consideration, the person or agent speaking on behalf of such a remonstrance group shall not be subject to time limitation. Thereafter, each member of the public speaking in opposition shall be limited to five (5) minutes for his or her presentation. Each member of the public shall be required to state his or her name and residential address; or in the case of a proposal made on behalf of an entity other than a natural person or on behalf of a group of individuals, that person and/or their agent shall state his or her name and business address for the record prior to making remarks in opposition to the Bill. In some instances, each member of the public may also be required to sign a sheet at the public podium which calls for the listing of his or her name and residential address prior to speaking. The remonstrance period following any formal presentation against the Bill under consideration shall not exceed the time used by members of the public who spoke in favor of the Bill or shall be limited to thirty (30) minutes, whichever is greater.
 - vi. There shall be an automatic five-minute rebuttal period for the person or persons who made the formal presentation on the Bill under consideration, after which the public portion of the hearing is closed.
 - vii. Following the public portion, the Council portion then takes place where members of the Council debate, ask questions and make motion(s) on the Bill under consideration. Each Bill must have a motion addressing the disposition of the Bill as it is then sent to the full Council for final action.

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

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

Business shall be conducted in the following order, unless the Council, by a two-thirds (⅔) vote shall suspend the rules:

- (1)—Invocation;
- (2)—Pledge to the flag;
- (3)—Roll call;
- (4)—Report from the Subcommittee on Minutes;
- (5)—Special business;
- (6)—Report(s) of City offices;
- (7)—Committee of the Whole:
 - (a)—Second readings by title only;
 - (b)—Public hearing on each bill listed;
 - (c)—Recommendation from the Committee of the Whole on each bill;
- (8)—Bills on third reading:
 - (a)—Third readings by title only;
 - (b)—Formal disposition on each bill by roll call vote;
- (9)—Resolutions:
 - (a)—Formal presentation;
 - (b)—Public hearing;
 - (c)—Roll call vote by council;
- (10)—Bills on first reading;
- (11)—Unfinished business;
- (12)—New business:
 - (a)—Council Members serving as representatives on other committees, commissions, boards, etc. [e.g., Area Plan Commission, Michiana Area Council of Governments (MACOG), Century Center Board of Managers, Solid Waste Management Board, etc.] shall provide verbal update(s) on meetings which they have attended in the past two (2) weeks; and
 - (b)—Council Members may announce upcoming events, meetings, etc.
- (13)—Privilege of the floor:
 - (a)—Individuals who wish to address the Council must state their name and residential address.
 - (b)—Individuals will be limited to three (3) minutes only. The maximum time limit for this portion of the meeting shall be thirty (30) minutes.
 - (c)—Individuals may address only issues over which the City has jurisdiction.

~~(d) — Individuals shall not be permitted to address topics which the Council has heard previously on the agenda.~~

~~(e) — The Council President may assign a topic raised by an individual during the Privilege of the Floor to the appropriate Council Member; and/or request the City Clerk to contact a member of the City Administration for review and comment. All topics assigned shall be responded to at the next regularly scheduled Common Council meeting.~~

~~(14) — Adjournment.~~

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

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

~~(a) — All bureau and department heads who send correspondence addressed to the entire Common Council shall include copies of the same for the City Clerk and the Council Attorney.~~

~~(b) — All reports required by this Code or which are sent to the entire Common Council, shall also be sent to the City Clerk and the Council Attorney. The Clerk shall maintain copies of said reports and make them available to the public.~~

~~(Ord. No. 7025-82, § 2)~~

~~DIVISION 1. YOUTH ADVISORY COUNCIL~~

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

~~(a) — A Youth Advisory Council is created for those of high school age grades 9—12. A Youth Advisory Council is established to enhance citizenship skills and to serve the best interests of youth in the City of South Bend, Indiana.~~

~~(b) — A Junior Youth Advisory Council, under the supervision of the Youth Advisory Council, to foster citizenship skills of youth of intermediate center age. The Youth Advisory Council would be required to prepare and file proper legislation for Common Council consideration, when it has determined that the Junior Youth Advisory Council should be created. Such Junior Youth Advisory Council would be representative of all public and private intermediate centers operating within the City of South Bend, Indiana.~~

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

~~Sec. 2-12.1.2. Membership of the Youth Advisory Council.~~

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

~~(a) — At least one (1) Youth Member shall be appointed to represent each of the six (6) Councilmanic Districts.~~

~~(b) — Upon passage of this ordinance, the Office of the City Clerk shall see that the "Application Form" for the Youth Advisory Council is able to be downloaded from the city website. The Office of the City Clerk shall see that information on the activities of the Youth Advisory Council are kept updated on the City's~~

internet website. Hard-copy application forms shall be available and kept on file in the Office of the City Clerk during regular business hours. Additionally, applications forms shall be made available on the City's website <http://www.southbendin.gov> on a twenty-four (24) hour, seven (7) days a week basis.

- (1) All youth interested in consideration shall obtain and complete in its entirety an application form.
- (2) The Office of the City Clerk, by the application deadline, shall assimilate all information and timely distribute copies of all applications and references to the appropriate offices for consideration.
- (3) An Application Review Board shall review all applications. All youth interested in representing a Councilmanic District must be a resident of the City of South Bend, Indiana.
- (4) An Application Review Board shall review all applications received from the Office of the City Clerk requesting consideration for appointment as a Youth Advisory Council Member. All youth interested in serving as a Youth Advisory Council member must be a resident of the City of South Bend and must represent the rich diversity of the community.
- (5) All Youth Advisory Council applications must be submitted by the end of September each year.
- (6) The Residential Neighborhoods Committee Chairperson may appoint youth mentors of college and/or graduate school age who will provide assistance and guidance throughout the year to the Youth Advisory Council Members. The youth mentors shall interface with the legislative, administrative and educational liaisons identified in Section 2-12.1.5.

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

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

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

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

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

- (a) Each Youth Advisory Council Member shall be required to attend meetings of the Youth Advisory Council, with three (3) excused absence permitted each year.
- (b) Each Youth Advisory Council Member shall be required to attend not less than two (2) committee meetings of any Standing Committee of the South Bend Common Council, two (2) neighborhood association meetings, and one (1) school board meeting by the end of December of each year.
- (c) Each Youth Advisory Council Member shall be required to attend the 2nd Common Council meeting in January where the Mayor presents his or her annual State of the City Address.

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- (d) ~~Each Youth Advisory Council Member shall participate in the annual "Civic Day" activities occurring in February at the County City Building, and other planned social or political action events.~~
 - (e) ~~The Youth Advisory Council may monitor other city boards and commissions for issues related to youth and make recommendations for such boards or commissions consideration when deemed appropriate.~~
- (Ord. No. 9414-03, § I; Ord. No. 10666-19, § I, 8-26-19)

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

- (a) ~~The Youth Advisory Council may develop:~~
 - (1) ~~Mission Statement;~~
 - (2) ~~Committee structure if deemed necessary;~~
 - (3) ~~Composite of the youth in the high school or district he or she is representing;~~
 - (4) ~~Newsletters and other means of communication with youth in the city;~~
 - (5) ~~Grant proposals;~~
 - (6) ~~Initiatives and Goals to be addressed, including but not limited to:~~
 - a. ~~Leadership opportunities;~~
 - b. ~~Civic responsibilities;~~
 - c. ~~Arts and Activism;~~
 - d. ~~Educational opportunities;~~
 - e. ~~Youth perspectives on local issues (health and wellbeing, environmental justice, sustainability, climate control, etc.);~~
 - f. ~~Creating a means of formal communication between city officials and youth in our community;~~
 - g. ~~Creating a model for youth involvement; and~~
 - h. ~~Partnering with local, state, federal, and international organizations which focus on youth involvement and development.~~
 - i. ~~Indicators of measuring success.~~
 - (b) ~~The Youth Advisory Council shall make recommendations to enhance participation of youth throughout the community, to improve communications with school and governmental entities, and to improve employment opportunities for youth in the community.~~
 - (c) ~~The Youth Advisory Council shall provide an annual report of its activities, initiatives and objectives.~~
 - (d) ~~The Youth Advisory Council shall address the Common Council under the "Special Business" portion to provide an annual report of its activities, initiatives and objectives.~~
- (Ord. No. 9414-03, § I; Ord. No. 10666-19, § I, 8-26-19)

~~Sec. 2-12.1.6. Liaisons to the Youth Advisory Council.~~

- (a) ~~The Residential Neighborhoods Committee Chair shall be the legislative liaison to the Youth Advisory Council and be available for mentoring duties. All Councilmembers are welcome to serve, but the Common Council~~

President and/or Vicechair of the Residential Neighborhoods Committee also strongly encouraged be legislative liaisons to the Youth Advisory Council.

(b) ~~The City Administration shall designate a point of contact as a liaison to the Youth Advisory Council and be available for programming and mentorship duties.~~

(c) ~~The Neighborhood Resources Corporation shall designate a point a contact as a program coordinator to the Youth Advisory Council to be responsible for coordinating programming duties.~~

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

~~Secs. 2-12.1.7—2-12.1.10. Reserved.~~

~~*DIVISION 2. COMMUNITY POLICE REVIEW BOARD*~~⁹

~~Sec. 2-12.1.11. Purposes.~~

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

~~(Ord. No. 10721-20, § I, 10-5-20)~~

~~Sec. 2-12.1.12. Definitions.~~

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

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

~~*Common council* means the South Bend Common Council.~~

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

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

~~*Department* means the South Bend Police Department.~~

~~*Director* means the Director of the Review Office.~~

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

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

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

~~*Member* means a member of the Review Board.~~

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

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

Ordinance means the Community Police Review Board ordinance.

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

Review board means the Community Police Review Board.

Review office means the Community Police Review Office.

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

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

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

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

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

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

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

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

(Ord. No. 10721-20, § 1, 10-5-20)

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

(a) — The Members shall select one (1) Member to serve as president of the Review Board.

(b) — Five (5) Members of the Review Board shall constitute a quorum for the purpose of conducting business, and five (5) Members must vote in favor of any item before any action or disposition can be taken.

(c) — All Review Board Members must attend a minimum of seventy-five (75) percent of the Review Board meetings. The Common Council may replace any Member who fails to meet this attendance requirement within sixty (60) days of written notice to the Member of failure to meet this attendance standard.

(d) ~~Before participating in any Review Board investigations, review or other duties of the Review Board, each Member must begin mandatory training. This training includes accompanying an on-duty Officer of the Department for a minimum of twelve (12) hours per year, and for a minimum of four (4) hours per occasion, in order to observe police procedures first-hand. Additionally, all Members are recommended to:~~

- ~~(1) Participate in training and assessment pursuant to the Intercultural Development Inventory (TOI) or similar program approved by the Common Council;~~
- ~~(2) Have strong community relations experience;~~
- ~~(3) Participate in the South Bend Police Department Citizens' Police Academy;~~
- ~~(4) Participate in mediation training;~~
- ~~(5) Participate in training in best practices in investigations, including a review of video footage of incidents of police misconduct;~~
- ~~(6) Participate in conflict resolution training; and~~
- ~~(7) Participate in restorative justice training.~~

~~(Ord. No. 10721-20, § I, 10-5-20)~~

Sec. 2-12.1.15. Review Board duties.

- ~~(a) The Review Board shall meet as often as necessary to consider all complaints which it deems appropriate to process and review, but no less than bi-monthly. The Review Board shall set rules for its governance and shall establish its procedures for processing complaints and for ensuring notification to Complainants of the status and disposition of their complaints.~~
- ~~(b) If a majority of the Review Board determines that additional information of a specialized police nature is necessary to process a complaint, the Review Board shall consult with one or more consultants of its choice, subject to appropriations.~~
- ~~(c) The Review Board shall:~~
 - ~~(1) Review the allegations of each complaint;~~
 - ~~(2) If necessary, investigate the allegations of each complaint;~~
 - ~~(3) Collect, track and report civilian complaints;~~
 - ~~(4) Suggest revisions to existing, or the addition of new, policies when necessary;~~
 - ~~(5) Facilitate Community Advisory Group meetings and compile resident feedback;~~
 - ~~(6) Provide policy suggestions to the Common Council, Mayor, and Board of Public Safety; and~~
 - ~~(7) Recommend to the appropriate authority the additional investigation of complaints when necessary.~~

~~(Ord. No. 10721-20, § I, 10-5-20)~~

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

- ~~(a) The Community Police Review Office is hereby established within the jurisdiction of the Mayor's Office. Any Complaint against an Officer of the Department alleging that the Officer used profane or abusive language, intentionally destroyed or damaged real or personal property, exceeded his/her authority as a police officer, used unauthorized force, acted in violation of the Department's rules and regulations or orders, or any other~~

perceived misconduct may be filed with the Review Office. In addition, if a Complainant alleges that intimidation tactics are being used to impede the filing of a Complaint, the Complainant shall report this to the Review Office and a separate Complaint will be filed regarding the new information. Each Complaint shall be filed within sixty (60) days of the alleged misconduct giving rise to the Complaint and shall be in writing. Unless the Complainant specifically requests that the Complaint remain anonymous in accordance with subsection (b) of this section, the Complaint, shall be signed by the Person making the Complaint, who shall verify or affirm under the penalties of perjury that the representations contained therein are true. The Complaint may be filed in person, by e-mail, by facsimile or through the mail. Additionally, Complaints may be filed after the expiration of the sixty (60) daytime period where the Person making the Complaint was an Incapacitated Person during the sixty (60) daytime period or where, upon a showing of good and sufficient cause and upon majority vote of the Review Board, a Person is permitted to belatedly file a Complaint.

- (b) Anonymous Complaints will be accepted when specifically requested by the Complainant. Anonymous Complaints will be investigated to the extent that sufficient information is provided. However, if the Complainant does not provide contact information, the investigators will be unable to ask follow-up questions that might be needed for a thorough, complete investigation.
- (c) Any individual personally aggrieved by the act or acts complained of may file a Complaint. A parent or guardian may file a Complaint on behalf of a minor or an incapacitated person. A member of the Immediate Family of a decedent may file a Complaint on behalf of the decedent. The Review Board may, upon a majority vote of its members, initiate a Complaint on behalf of an aggrieved person with that person's written consent.
- (d) The complaint process shall be accessible to all persons regardless of race, national origin, ancestry, religion, color, sex, sexual orientation, gender identity, age, language, disability, immigration status or United States military service veteran status. No Member of the Review Board or the Review Office will ever request information about a Complainant's or a witness's immigration status.

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

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

- (a) The Mayor, with the consultation of the Common Council, shall appoint a full-time Director of the Review Office. The Director shall be supervised and be subject to review and evaluation by the Mayor or the Mayor's designee in collaboration with the Review Board and the Common Council. The duties of the Director shall include:
 - (1) Managing the Review Office, including its staff;
 - (2) Enhancing communications and good will between the police and residents;
 - (3) Maintaining records, confidential or otherwise, of all Complaints, proceedings thereon, and dispositions.
- (b) Pursuant to IC 36-4-11-2, the Director shall serve at the pleasure of the Mayor. The Mayor may request the Common Council:
 - (1) To review applications and submit no more than three (3) names of candidates to the Mayor for appointment as Director. Under this process, the Common Council shall review all applications for the position of Director initially in an Executive Session, and the submission of candidate names shall be conducted through resolution approved by a majority of the Common Council. (or by Council President); and

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

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

- (a) — All complaints shall be referred to the Department's Internal Affairs for investigation. An independent investigator of the Review Office shall conduct a concurrent investigation and work in collaboration with Internal Affairs. Department investigations shall be completed with sixty (60) days after a Complaint is referred to Internal Affairs. The Chief may request an extension of time to complete the investigation from the Director, stating the specific reasons therefore.
- (b) — After any investigation is returned to the Review Office, the Review Board shall review the investigation and the action taken or recommended by the Chief, if any. If the Review Board does not agree with the action taken or recommended by the Chief, or if the Review Board disagrees with the investigation conducted by the Department, the Review Board will notify the Officer or Officers alleged to have been involved in the complained of incident of the date of the incident. The Review Board may then, by majority vote:
- (1) — Order the Director to further investigate the allegations of the Complaint;
 - (2) — Conduct an informal administrative hearing on the Complaint; or
 - (3) — Order the Director to engage in a process of informal mediation to attempt to resolve the Complaint.
- (c) — If the Review Board determines to hold a hearing, the Review Office shall give written notice to all parties and witnesses at least fifteen (15) days in advance of the scheduled hearing. All parties shall be informed of the right to have legal counsel, or other representative or advocate, to represent the party at the hearing. All testimony at such hearing shall be recorded and given under oath or under penalty of perjury.
- (d) — Upon the completion of the investigation by the Review Office or after a hearing, the Review Board shall make a disposition regarding the Complaint. The disposition shall be one (1) or more of the following:

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- (1) ~~Not sustained (when there is insufficient evidence to prove the allegation(s) made in the Complaint by a preponderance of the evidence);~~
 - (2) ~~Sustained (when there is sufficient evidence to prove the allegation(s) made in the Complaint by the preponderance of the evidence);~~
 - (3) ~~Exonerated (when the allegation(s) made in the Complaint are false or not factual, or the conduct complained of was lawful and proper); and/or~~
 - (4) ~~Withdrawn (when the Complainant requests that no further action be taken on the case).~~

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

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

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

~~(Ord. No. 10721-20, § I, 10-5-20)~~

Sec. 2-12.1.19. Subpoena requests.

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

~~Any such request will be discussed by the Common Council in Executive Session pursuant to IC 5-14-1.5-6.1(b)(6). At the next subsequent full Common Council meeting following the Executive Session, special or regular, any Common Council member, under the "Special Business" Agenda item, may make a motion for the Common Council to continue the Review Board's investigation by issuing the requested subpoenas. If no such motion is made, or if such a motion is defeated, the request for subpoenas shall be deemed denied but the Review Board's investigation may otherwise continue. If such motion is made and passed by a majority vote of the entire Common Council, the requested subpoenas will be issued pursuant to IC 36-4-6-21 and South Bend Municipal Code Section 2-2(i). This power to issue subpoenas shall be enforceable by the St. Joseph County Circuit or Superior Court pursuant to IC 36-4-6-21.~~

~~(Ord. No. 10721-20, § I, 10-5-20)~~

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

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

~~(Ord. No. 10721-20, § 1, 10-5-20)~~

Sec. 2-12.1.21. Severability.

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

~~(Ord. No. 10721-20, § 1, 10-5-20)~~