



COMMON COUNCIL
CITY OF SOUTHPORT, 137 WORMAN STREET
SOUTHPORT, INDIANA 46227

ORDINANCE NO. 2018.11

A SPECIAL ORDINANCE ESTABLISHING PROCEDURES UNDER I.C. 36-4-6-6 FOR
ADDRESSING COUNCIL MEMBER VIOLATIONS OF OFFICIAL DUTY AND INABILITY TO
PERFORM OFFICIAL DUTIES

WHEREAS, Indiana Code 36-4-6-6 (the "Removal Statute") authorizes the Common Council ("Common Council") of the City of Southport, Indiana, (the "City"), to expel any member of the Common Council for violation of an official duty or to declare the seat of any member vacant if the member is unable to perform the duties of the member's office, upon adoption of its own rules to govern proceedings under the Removal Statute, and upon a two-thirds (2/3) vote to expel a member or vacate the member's seat;

WHEREAS, any vacancy created by the removal of a council member under the Removal Statute would be filled by a caucus of the political body of the removed member; and

WHEREAS, the Common Council believes it to be in the best interest of the City to adopt rules of procedure to govern proceedings under the Removal Statute.

NOW THEREFORE, be it ordained by the Common Council of the City of Southport as follows:

Section 1. A new Section 3.08.130 is hereby added to the Southport City Code, to read as follows:

3.08.130 PROCEDURE FOR REMOVAL OF A COUNCIL MEMBER.

- (A) Any council member, the Mayor, or any attorney for the City may submit information to the Council concerning a council member's violation of an official duty and request that the Council expel the council member.
- (B) Any council member, the Mayor, or any attorney for the City may submit information to the Council concerning a council member's inability to perform the duties of the council member's office and request that the Council declare the seat of the council member to be vacant.
- (C) The accused council member shall be notified in writing as to the nature of the charges and the facts supporting them, which notice shall also be simultaneously filed with the Clerk-Treasurer.
- (D) The accused council member shall have fifteen (15) days from the delivery of notice to respond to the notice and charges in writing.
- (E) After the accused council member has provided a written response or the fifteen (15) day response period has expired, whichever occurs first, the Mayor, or in the Mayor's absence, the President Pro Tempore of the Council, shall call a special Council meeting, which shall not be more than thirty-five (35) days after the delivery of the notice to the accused council member. The only matter on the agenda shall be to conduct a hearing and hear evidence and argument for and against expulsion or vacating of the council member's seat, as the case may be.
- (F) An attorney for the City, as designated by the Mayor, shall represent the City against the accused council member at the hearing.
- (G) The Indiana Rules of Evidence shall not apply.



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(H) The City and the accused shall have the right to subpoena witnesses and compel their attendance. The accused shall have the right to be represented by an attorney, shall have the right to cross-examine witnesses, and shall have the right to present evidence and make argument. An attorney for the City shall provide assistance to the Council on all procedural and evidentiary matters.

(I) After the evidence has been concluded, the Council shall deliberate in public session. When deliberations are concluded, the issue of expulsion or vacating of the council member's seat shall be decided by vote in public session. A two-thirds (2/3) majority vote of the elected members shall be necessary to expel a council member or vacate the member's seat.

(J) The Council shall adopt written findings of facts and conclusions, which shall be delivered to the accused council member and filed with the Clerk-Treasurer within seven (7) days of the decision.

(K) Upon a decision to expel a council member or vacate a member's seat, the accused council member shall have thirty (30) days from the date the written findings of facts and conclusions are filed with the Clerk-Treasurer to seek judicial review as in other administrative matters.

Section 2. This Ordinance shall be in full force and effect after its passage and approval by the Mayor of the City of Southport, Indiana, or as otherwise provided by I.C. 36-4-6-14.



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The foregoing ordinance was introduced for first reading at a public meeting of the City of Southport Common Council on the ____ day of _____, 201__, and was passed by the Common Council on its final reading on the ____ day of _____, 201_____.

Mayor Russell McClure, as Presiding Officer only, pursuant
to I.C. 36-4-6-8, 14, 15, & 17

CITY OF SOUTHPORT COUNCIL MEMBERS

FOR

AGAINST

James Cooney

James Cooney

Joseph E. Haley, Jr.

Joseph E. Haley, Jr.

Shara Hostetler

Shara Hostetler

Larry L Tunget

Larry L Tunget

Kenny Winslow

Kenny Winslow

ATTEST:

Diana S. Bossingham, Clerk-Treasurer

Pursuant to I.C. 36-4-6-15, the foregoing attached Ordinance has been presented by me to the Mayor of the City of Southport, Indiana on the ____ day of _____, 201_____.

Diana S. Bossingham, Clerk-Treasurer

Pursuant to I.C. 36-4-6-16, is hereby signed and approved by me, Russell McClure, as Mayor of the City of Southport, Indiana on the ____ day of _____, 201_____.

Russell McClure, Mayor