BILL NO. G-13-02-10

GENERALORDINANCE NO. G-__________

AN ORDINANCE amending Chapter 153: Planning and Development, *Designation of Economic Revitalization Areas and the Granting of Tax Abatements,* of the City of Fort Wayne, Indiana Code of Ordinances

WHEREAS, The Fort Wayne Common Council periodically reviews certain policies that affect the fiscal impact of commerce and government, in particular tax abatements (deduction) for businesses; and

WHEREAS, It is imperative that oversight of tax abatements be given careful scrutiny in order to keep the balance between attracting new business/encouraging growth while maintaining government revenues; and

WHEREAS, Fort Wayne Common Council members have worked cooperatively with Allen County Council members to submit reasonable and innovative amendments to the current Chapter 153, governing the area of Granting Tax Abatements to qualifying business applicants; and

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA,

SECTION 1. That Chapter 153 entitled DESIGNATION OF ECONOMIC REVITALIZATION AREAS AND THE GRANTING OF TAX ABATEMENTS be amended as follows:

DESIGNATION OF ECONOMIC REVITALIZATION AREAS AND THE GRANTING OF TAX PHASE-INS

SECTION 2. That Section 153.13 entitled DELEGATION OF RESPONSIBILITY be amended as follows:

§ 153.13 MISSION AND DELEGATION OF RESPONSIBILITY.

Tax phase-in is an economic development incentive to stimulate job growth, payroll and new investment of new and existing businesses in Fort Wayne and Allen County. It is designed to maximize long term tax base and assist these projects where they may otherwise not occur.

The Common Council designates the City of Fort Wayne Community Development Division as the entity for the administration and processing of applications for economic revitalization areas. Those procedures deemed necessary for the orderly application, administration and monitoring of economic revitalization areas shall be developed by the Director of the Community Development Division, submitted to the finance committee of the Common Council, and approved by the Common Council of the whole. Any ensuing changes to same administrative procedures shall be approved by similar action of the Council.

SECTION 3. That Section 153.16 entitled COMMUNITY BENEFIT REVIEW be amended as follows:

§ 153.16 COMMUNITY BENEFIT REVIEW.

In its deliberations regarding designation of an economic revitalization area, the Common Council shall, pursuant to IC 6-1.1-12.1-2(f), find that none of the following standards have been violated:

(A) The designation will encourage the use of vacant or under-utilized land or improvement or replacement of a deteriorated or obsolete structure designated as appropriate for industrial or commercial development which is currently zoned appropriately for industrial or commercial use.

(B) The proposed use of the real estate for which designation is being requested is consistent with the land use policies of the city.

(C) The designation will encourage the improvement or replacement of a deteriorated or obsolete manufacturing equipment, or result in significant conversion of solid waste or hazardous waste into energy or other useful products.

(D) The designation will have no negative impact on the preservation of a historically listed structure.

(E) The designation will assist in the inducement of a project providing employment opportunities for Fort Wayne area residents.

(F) The designation will assist in the inducement of a project which will provide long-term benefits to the tax base of the city. It is the policy of the Common Council, therefore, that the Common Council shall denote in the appropriate space on the Statement of Benefits Form (State Form SB-1) as a precondition to the receipt of economic revitalization area status the following text: "Subject to taxpayer's non-delinquent status on any and all property tax due to taxing jurisdictions within Allen, County, Indiana". In subsequent filings by the taxpayer and/or applicant of Compliance with Statement of Benefits Forms (State Form CF-1), taxpayer/applicant must self-certify its non-delinquent status with all taxing jurisdictions within Allen County, Indiana.

(G) For projects located in economic development target areas standards (A) through (F) must be met. In addition to standards (A) through (F), projects located in the downtown economic development target areas must conform to the downtown design guidelines.

(H) The applicant requesting the designation has disclosed any and all persons of interest or business entities affiliated with the project.

SECTION 4. That Section 153.18 entitled DESIGNATION PERIODS be amended as follows:

§ 153.18 DESIGNATION PERIODS.

Designation periods for newly designated economic revitalization areas shall expire on December 31, 2016, unless otherwise automatically extended in five-year increments per I.C. 6-1.1-12.1-9 or specified by the Common Council in its confirming resolution.

SECTION 5. That Section 153.19 entitled DEDUCTION PERIODS FOR REAL PROPERTY be amended as follows:

§ 153.19 DEDUCTION PERIODS FOR REAL PROPERTY.

In determining whether an applicant is entitled to a deduction for real property improvement projects, the Fort Wayne Common Council shall qualify a designation by:

(A) Limiting the number of years of deduction (abatement) for improvements to real property in areas not designated as an economic development target area to three, five, seven, or ten years, based on the following Review System:

TAX ABATEMENT REVIEW SYSTEM—REAL PROPERTY

	Points Possible	Points Awarded
INVESTMENT (30 points possible)		
Total new investment in real property (new structures and/or rehabilitation)		
Over $1,000,000	10	
$500,000 to $999,999	8	
$100,000 to $499,999	6	
Under $100,000	4	
Investment per employee (both jobs created and retained)		
$35,000 or more	10	
$18,500 to $34,999	8	
$6,250 to $18,499	6	
$1,250 to $6,249	4	
Less than $1,249	2	
Estimated local income taxes generated from jobs retained		
$80,000 or more	5	
$30,000 to $79,999	4	
$10,000 to $29,999	3	
$5,000 to $9,999	2	
Less than $5,000	1	
Estimated local income taxes generated form jobs created (Double points for start-up)		
$30,000 or more	5	
$10,000 to $29,999	4	
$5,000 to $9,999	3	
$3,000 to $4,999	2	
Less than $3,000	1	
ECONOMIC BASE (20 points possible)		
Location Quotient in designated Occupation Code (use majority Occupation Code of all created and retained jobs)		
Greater than 1.0	5	
Estimated Percent of Business done outside Allen County		

Greater than 75%	15
50% to 74%	10
25% to 49%	5

JOBS (20 points possible)

Total number of permanent jobs retained

Over 250	10
100 to 249	8
50 to 99	6
25 to 49	4
10 to 24	2
1 to 9	1

Total number of permanent jobs created

Over 100	10
50 to 99	8
25 to 49	6
10 to 24	4
1 to 9	2

WAGES (20 points possible)

Median salary of the jobs created and/or retained

Over $45,000	20
$40,000 to $44,999	16
$35,000 to $39,999	12
$30,000 to $34,999	8
$25,000 to $29,999	4
Under $25,000	0

BENEFITS (10 points possible)

Major medical plan offered	7
Pension, tuition reimbursement, life insurance, dental insurance, and/or disability insurance offered	3

SUSTAINABILITY

Construction uses green building techniques (i.e. LEED Certification)	5

Construction uses techniques to minimize impact

on Combined Sewer Overflows	5	
		TOTALS

LENGTH OF ABATEMENT

20 to 39 points – 3 year abatement

40 to 59 points – 5 year abatement

60 to 69 points – 7 year abatement

70 to 100 points – 10 year abatement

*** If Average annual salary of the full-time jobs created by listed occupation is 10% or greater than the average salary for Allen County using current occupational employment statistics and is eligible for a ten or seven year abatement, then the applicant is eligible for an alternate deduction schedule.**

<u>10 Year</u>

Year 1	**100%**
Year 2	**100%**
Year 3	**100%**
Year 4	**100%**
Year 5	**100%**
Year 6	**90%**
Year 7	**80%**
Year 8	**65%**
Year 9	**50%**
Year 10	**40%**

<u>7 Year</u>

Year 1	**100%**
Year 2	**100%**
Year 3	**100%**
Year 4	**100%**
Year 5	**100%**
Year 6	**71%**
Year 7	**43%**

Notwithstanding the foregoing, when a project is located within a designated economic development target area and not defined as ineligible under § 153.15 then such project may receive a ten year deduction (abatement), without adhering to the Review System.

(B) Allowing the owner of an eligible vacant building, as defined in IC 6-1.1-12.1-1 (17), a deduction from the assessed value of the building if the property owner or tenant of the property owner occupies the eligible vacant building and uses it for commercial or industrial purposes. The deduction shall be limited as follows:

(1) Property owner is entitled to the deduction for no more than two years.

(2) The amount of deduction the property owner is entitled to receive for a particular year is based on the formula set forth in IC 6-1.1-12.1-4.8 (h) and (i)

SECTION 6. That Section 153.20 entitled DEDUCTION PERIODS FOR PERSONAL PROPERTY be amended as follows:

§ 153.20 DEDUCTION PERIODS FOR PERSONAL PROPERTY.

In determining whether an applicant is entitled to a deduction for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment as defined in IC 6-1.1-12.1-1(3), 6-1.1-12.1-1(12), 6-1.1-12.1-1(13) or 6-1.1-12.1-1(14), the Common Council shall qualify a designation by limiting the number of years of deduction for eligible personal property to three, five, seven or ten years based on the following Review System:

TAX ABATEMENT REVIEW SYSTEM—PERSONAL PROPERTY

	Points Possible	Points Awarded
INVESTMENT (30 points possible)		
Total new investment in equipment		
Over $5,000,000	10	
$1,000,000 to $4,999,999	8	
$500,000 to $999,999	6	
$0 to $499,999	4	
Investment per employee (both jobs created and retained)		
$35,000 or more	10	
$18,500 to $34,999	8	
$6,250 to $18,499	6	
$1,250 to $6,249	4	
Less than $1,249	2	
Estimated local income taxes generated from jobs retained		
$80,000 or more	5	
$30,000 to $79,999	4	
$10,000 to $29,999	3	
$5,000 to $9,999	2	
Less than $5,000	1	
Estimated local income taxes generated form jobs created (Double points for start-up)		
$30,000 or more	5	

$10,000 to $29,999	4
$5,000 to $9,999	3
$3,000 to $4,999	2
Less than $3,000	1

ECONOMIC BASE (20 points possible)

Location Quotient in designated Occupation Code
(use majority Occupation Code of all created and retained jobs)

Greater than 1.0	5

Estimated Percent of Business done outside Allen County

Greater than 75%	15
50% to 74%	10
25% to 49%	5

JOBS (20 points possible)

Total number of permanent jobs retained

Over 250	10
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1 to 9	1

Total number of permanent jobs created

Over 100	10
50 to 99	8
25 to 49	6
10 to 24	4
1 to 9	2

WAGES (20 points possible)

Median salary of the jobs created and/or retained

Over $45,000	20
$40,000 to $44,999	16
$35,000 to $39,999	12
$30,000 to $34,999	8
$25,000 to $29,999	4
Under $25,000	0

BEFITS (10 points possible)

Major medical plan offered	7
Pension, tuition reimbursement, life insurance, dental insurance, and/or disability insurance offered	3

SUSTAINABILITY

Construction uses green building techniques (i.e. LEED Certification)	5
Construction uses techniques to minimize impact on Combined Sewer Overflows	5

TOTALS

LENGTH OF ABATEMENT
20 to 39 points – 3 year abatement
40 to 59 points – 5 year abatement
60 to 69 points – 7 year abatement
70 to 100 points – 10 year abatement

* If Average annual salary of the full-time jobs created by listed occupation is 10% or greater than the average salary for Allen County using current occupational employment statistics and is eligible for a ten or seven year abatement, then the applicant is eligible for an alternate deduction schedule.

<u>10 Year</u>

Year 1	100%
Year 2	100%
Year 3	100%
Year 4	100%
Year 5	100%
Year 6	90%
Year 7	80%
Year 8	65%
Year 9	50%
Year 10	40%

<u>7 Year</u>

Year 1	100%
Year 2	100%
Year 3	100%
Year 4	100%
Year 5	100%
Year 6	71%
Year 7	43%

SECTION 7. That Section 153.21 entitled COMPLIANCE WITH STATEMENT OF BENEFITS be amended as follows:

§ 153.21 COMPLIANCE WITH STATEMENT OF BENEFITS.

(A) All deduction applications filed with the Allen County Auditor for projects designated by the Common Council as economic revitalization areas must include a correct and complete Compliance with Statement of Benefits Form (CF-1) as prescribed by the Indiana Department of Local Government Finance. For designations approved after January 1, 2012, deduction applications must also include a Public Benefit Annual Update form provided by the city to the applicant and affirmed to its accuracy by the applicant that provides additional employment information by occupation classification for Allen County under current occupational employment statistics. The Compliance with Statement of Benefits Form must be filed with both the Allen County Auditor and the city Community Development Division according to the filing schedule listed in IC 6-1.1-12.1-5 and IC 6-1.1-12.1-5.5, as applicable.

(B) Compliance with Statement of Benefit Forms filed by an applicant must show the extent to which there has been compliance with the Statement of Benefits Form (SB-1) approved by the Common Council in designating the area an economic revitalization area. The Compliance with Statement of Benefits Form must be updated per IC 6-1.1-12.1-1 et seq. The Common Council shall monitor for substantial compliance those projects it designates as economic revitalization areas.

(C) Substantial compliance has been defined by the Common Council as:

(1) Meeting 75% or more of the numbers of full-time and/or part-time jobs stated to be created or retained as delineated in the original Statement of Benefits Form (SB-1) approved by the Common Council; and

(2) Meeting 75% or more of the total payroll stated to be created or retained as delineated in the original Statement of Benefits Form (SB-1) approved by the Common Council, within the time frame projected in the applicant's original approved Statement of Benefits Form.

(D) Within 45 days after receipt of a properly filed Compliance with Statement of Benefits Form, the Common Council will determine whether the applicant has substantially complied with the Statement of Benefits Form and, if not, whether the failure to substantially comply was caused by factors beyond the control of the applicant.

(E) Property owners that have not substantially complied with the terms of their original Statement of Benefits Form may have the remainder of their tax abatement rescinded by the Common Council.

(F) An applicant that has received a deduction for real and/or personal property:

(1) Ceases operations at the facility for which the deduction was granted; and

(2) Is found to have intentionally provided false information concerning plans to continue operations at the facility, may be determined by Common Council to be subject to repayment to the Allen County Treasurer of those property taxes that were deducted per the formula given in IC 6-1.1-12.1-12(e).

SECTION 8. That Section 153.25 entitled SUNSET PROVISION be amended as follows:

§ 153.25 SUNSET PROVISION.

Chapter 153 Sections 153.13 through 153.25 shall be subject to a sunset of its provisions on December 31, 2017 except that such sunset date shall have no effect on any designations made by that date of December 31, 2017.

SECTION 9. This Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Mitchell V. Harper, Council Member

Russ Jehl, Council Member

Geoff Paddock, Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney