BILL No. R-19-12-08 **RESOLUTION No.**

AN ORDINANCE AMENDING § 153.21: COMPLIANCE WITH STATEMENT OF BENEFITS WITHIN CHAPTER 153: PLANNING AND DEVELOPMENT OF THE FORT WAYNE MUNICIPAL CODE OF ORDINANCES

WHEREAS, the Fort Wayne Common Council ("Common Council") periodically reviews certain policies that affect property-tax phase-ins for the City of Fort Wayne ("City"); and

WHEREAS, property tax phase-ins are given careful scrutiny to balance the need to encourage growth and development with the need to maintain government revenues; and

WHEREAS, the City of Fort Wayne has codified its procedures for the orderly application, administration, and monitoring of economic revitalization areas and the related tax phase-ins in Chapter 153 of the City's Municipal Code (the "City Code"); and

WHEREAS, the City's Community Development division is granted authority to administer the tax phase-in programs and to promulgate policies and procedures for the phase-in application and approval process; and

WHEREAS, Community Development recently updated its tax phase-in policies and procedures to include language that requires recipients of tax phase-ins to maintain compliance with licensing rules and regulations, as well as other federal, state, and local rules and regulations, throughout the entirety of the project subject to the tax phase-in; and

WHEREAS, Common Council wishes to pass an ordinance amending § 153.21: "Compliance with Statement of Benefits" within Chapter 153: "Planning and Development" to include compliance requirement with licensing and other federal, state, and local rules and regulations; and

WHEREAS, among other things, the ordinance shall permit Common Council to evaluate and potentially terminate a tax phase-in if the applicant fails to maintain compliance with the licensing compliance regulation set forth in the City Code or other federal, state, or local rules and regulations.

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

SECTION 1. That § 153.21: "Compliance with Statement of Benefits" within Chapter 153: "Planning and Development" shall be amended to be titled "Compliance with Statement of Benefits and Compliance with Law and Regulations," to amend Section "E" to read as follows, to add Section "F" as noted, and to change the current Section "F" to Section "G":

§ 153.21 COMPLIANCE WITH STATEMENT OF BENEFITS AND COMPLIANCE WITH LAW AND OTHER REGULATIONS.

(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, applicants, and tax abatement recipients 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) Property owners, applicants, and tax abatement recipients with Projects involving improvements, including those to real property, that do not adhere to all applicable federal, state, and municipal statutes, regulations, ordinances and codes, including but not limited to all Indiana and Allen County Building Codes and the Allen County Zoning Ordinance, may have the remainder of their tax abatement rescinded by the Common Council. Adherence to all applicable federal, state, and municipal statutes, regulations, ordinances and codes must be maintained throughout all design, permitting, contractor licensure, and construction phases of the Property owner's project. Said adherence shall be attested to on the initial tax abatement application and each annual Compliance with Statement of Benefits Form.

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

(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 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

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Russ Jehl, Council Member

APPROVED AS TO FORM AND LEGALITY:

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Joseph G. Bonahoom, City Council Attorney