

A RESOLUTION Considering a Waiver of Non-Compliance for Late-Filed Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE) and Late Filed Compliance with Statement of Benefits (Form CF-1/Real Property), Late-Filed Compliance with Statement of Benefits (Form CF-1/Personal Property) and Determination of Substantial Compliance or Non-Compliance with Statement of Benefits Approved under R-66-21 for 6055 Innovation Boulevard, Fort Wayne, Indiana 46818 (Michael Kinder and Sons, Inc.)

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 6055 Innovation Boulevard for Michael Kinder and Sons, Inc. (Confirming Resolution R-66-21) under Sections 153.13-153.24 of the Municipal Code of the City of Fort Wayne, Indiana, and I.C. 6-1.1-12.1; and

WHEREAS, The original Statement of Benefits and economic revitalization area designation application submitted by Michael Kinder and Sons, Inc. and approved under Confirming Resolution R-66-21 was for \$6,000,000 in real property improvements and \$450,000 in personal property improvements; and

WHEREAS, Michael Kinder and Sons, Inc.'s 2024 Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE) was not filed in a timely manner on, or prior to, May 10, 2024 with the Allen County Auditor's Office; and

WHEREAS, Michael Kinder and Sons, Inc.'s 2024 Compliance with Statement of Benefits (Form CF-1/Real Property) was not filed in a timely manner on, or prior to, May 15, 2024 with the City of Fort Wayne or the Allen County Auditor's Office; and

WHEREAS, Michael Kinder and Sons, Inc.'s 2024 Compliance with Statement of Benefits (Form CF-1/Personal) was not filed in a timely manner on, or prior to, May 15, 2024 with the City of Fort Wayne or the Allen County Assessor's Office; and

WHEREAS, the City has given Michael Kinder and Sons, Inc. notice to file their Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE) with the Allen County Auditor's Office; and

WHEREAS, the City has given Michael Kinder and Sons, Inc. notice to file their Compliance with Statement of Benefits (Form CF-1/Real Property) with the City and the Allen County Auditor's Office; and

WHEREAS, the City has given Michael Kinder and Sons, Inc. notice to file their Compliance with Statement of Benefits (Form CF-1/Personal Property) with the City and the Allen County Assessor's Office; and

1 **WHEREAS**, the City has given Michael Kinder and Sons, Inc. notice to submit an
2 application for a waiver of non-compliance for a late filed Application for Deduction from
3 Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE), late
4 filed Compliance with Statement of Benefits (Form CF-1/Real Property) and late filed Compliance
with Statement of Benefits (Form CF-1/Real Property); and

5 **WHEREAS**, Michael Kinder and Sons, Inc. has filed their Application for Deduction from
6 Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE),
7 Compliance with Statement of Benefits (Form CF-1/Real Property) with the City of Fort Wayne
8 and Allen County Auditor's Office, Compliance with Statement of Benefits (Form CF-1/Personal
9 Property) with the City of Fort Wayne and Allen County Assessor's Office and submitted an
10 application for a waiver of non-compliance for failure to file their Application for Deduction from
Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE),
11 Compliance with Statement of Benefits (Form CF-1/Real Property) and Compliance with
Statement of Benefits (Form CF-1/Personal Property) in a timely manner; and

12 **WHEREAS**, the Common Council acknowledges that Michael Kinder and Sons, Inc. has
13 requested a waiver of non-compliance which the Common Council has the power and authority
14 to approve, under I.C. 6-1.1-12.1-9.5); and

15 **WHEREAS**, Michael Kinder and Sons, Inc. has fulfilled its pledge to complete the project
16 to construct a new corporate headquarters and warehouse and purchase and install new
17 personal property equipment; and

18 **WHEREAS**, Based on the CF-1 statement of benefits submitted, Michael Kinder and
19 Sons, Inc. has established that they have substantially complied with its approved statement of
20 benefits; and

21 **WHEREAS**, I.C. 6-1.1-12.1-9.5 permits tax abatement non-compliance events such as
22 the untimely filed Application for Deduction from Assessed Valuation of Structures in Economic
23 Revitalization Areas (ERA) (Form 322/RE), untimely filed Compliance with Statement of Benefits
24 (Form CF-1/Real Property) and untimely filed Compliance with Statement of Benefits (Form CF-
1/Personal Property) paperwork to be waived; and

25 **WHEREAS**, if Common Council approves the waiver of non-compliance for the late filed
26 Application for Deduction from Assessed Valuation of Structures in Economic Revitalization
27 Areas (ERA) (Form 322/RE), late filed Compliance with Statement of Benefits (Form CF-1/Real
28 Property) and Compliance with Statement of Benefits (Form CF-1/Personal Property) then
29 Common Council will also determine substantial compliance or non-compliance with statement of
30 benefits; and

WHEREAS, a public hearing of the Common Council has been held on the waiver.

1 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT
2 WAYNE, INDIANA:

3 [OPTION 1]

4
5 **SECTION 1.** That, Michael Kinder and Sons, Inc.'s request for a waiver of clerical and technical
6 errors and nonconformities with its Application for Deduction from Assessed Valuation of
7 Structures in Economic Revitalization Areas (ERA) (Form 322/RE), Compliance with Statement
8 of Benefits (Form CF-1/Real Property) and Compliance with Statement of Benefits (Form CF-
1/Personal Property) requirements is hereby denied and as such the tax phase-in granted under
Confirming Resolution R-66-21 for real property is terminated.

9
10 **SECTION 2.** That this Resolution shall be in full force and effect from and after its passage and
11 any and all necessary approved by the Mayor.

12 [OPTION 2]

13 **SECTION 1.** That all clerical and technical errors and nonconformities of Michael Kinder and
14 Sons, Inc.'s Application for Deduction from Assessed Valuation of Structures in Economic
15 Revitalization Areas (ERA) (Form 322/RE), Compliance with Statement of Benefits (Form CF-
1/Real Property) and Compliance with Statement of Benefits (Form CF-1/Personal Property)
16 requirements that are waivable under State and local law, including without limitation those errors
17 and nonconformities described in I.C. 6-1.1-12.1-9.5 are hereby waived.

18
19 **SECTION 2. [OPTION A]** That Common Council finds that the CF-1 forms filed by Michael
20 Kinder and Sons, Inc. with an approved Economic Revitalization Area for 2024 is in substantial
21 compliance pursuant to I.C. 6-1.1-12.1 and Section 153.21 of the Municipal Code of the City of
22 Fort Wayne. Therefore, the continuation of Michael Kinder and Sons, Inc.'s tax phase-in is
23 hereby approved. The Allen County Auditor and Allen County Assessor shall be supplied with a
24 copy of this Resolution, upon passage, and are instructed to apply the tax phase-in.

25 **SECTION 2. [OPTION B]** That Common Council finds that the CF-1 forms filed by Michael
26 Kinder and Sons, Inc. with an approved Economic Revitalization Area with an approved
27 Economic Revitalization Area for 2024 are not in substantial compliance pursuant to I.C. 6-1.1-
28 12.1 and Section 153.21 of the Municipal Code of the City of Fort Wayne. Therefore, Michael
29 Kinder and Sons, Inc.'s tax phase-in is hereby terminated. The Allen County Auditor and Allen
30

1 County Assessor shall be supplied with a copy of this Resolution, upon passage, and are
2 instructed to terminate the tax phase-in for real and personal property.

3 **SECTION 3.** That, this Resolution shall be in full force and effect from and after its passage and
4 any and all necessary approval by the Mayor.

5
6 _____
Member of Council

7
8 APPROVED AS TO FORM AND LEGALITY

9
10 _____
Malak Heiny, City Attorney

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: Resolution Considering a Waiver of Non-Compliance for Late-Filed Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Areas (ERA) (Form 322/RE), Late-Filed Compliance with Benefits (Form CF-1/Real Property), Late-Filed Compliance with Benefits (Form CF-1/Personal Property) and a Determination of Substantial Compliance or Non-Compliance with Statement of Benefits approved under R-66-21 for 6055 Innovation Boulevard, Fort Wayne, Indiana 46818 (Michael Kinder and Sons, Inc.)

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: This resolution considers a waiver of non-compliance for late filed documents and a determination of compliance or non-compliance with statement of benefits for filings made in July 2024 for Michael Kinder and Sons, Inc.

EFFECT OF PASSAGE: Potential retention or loss of economic revitalization area deduction (property tax abatement/phase-in).

EFFECT OF NON-PASSAGE:

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): No expenditures of public funds required.

ASSIGNED TO COMMITTEE (CHAIR & CO-CHAIR): Martin Bender and Rohli Booker

NOTICE OF PUBLIC HEARING
FORT WAYNE COMMON COUNCIL
(RESOLUTION NO. R-24-07-17)

ON AUGUST 6, 2024 AT 5:30 P.M., IN THE CONFERENCE ROOM 030, CITIZENS SQUARE, FORT WAYNE, INDIANA, A PUBLIC HEARING WILL BE HELD ON THE MATTER OF A WAIVER OF NONCOMPLIANCE WITH THE PROCEDURAL REQUIREMENTS OF I.C. 6-1.1-12.1, RELATING TO THE REAL AND PERSONAL PROPERTY DEDUCTION OF PROPERTY AT 6055 INNOVATION BOULEVARD AND APPROVED UNDER RESOLUTION R-66-21 FOR MICHAEL KINDER AND SONS, INC.

THE PUBLIC HEARING ON THE WAIVER WILL BE HELD PURSUANT TO I.C. 6-1.1-12.1-9.5 AND I.C. 6-1.1-12.1-11.3.

ALL INTERESTED PERSONS ARE INVITED TO ATTEND AND BE HEARD AT THE PUBLIC HEARING.

“REASONABLE ACCOMMODATIONS” FOR PERSONS WITH A KNOWN DISABLING CONDITION WILL BE CONSIDERED IN ACCORDANCE WITH STATE AND FEDERAL LAW. ANY PERSON NEEDING A “REASONABLE ACCOMMODATION” SHOULD NOTIFY THE CITY OF FORT WAYNE PUBLIC INFORMATION OFFICE (260) 427-1120 AT LEAST (72) HOURS PRIOR TO THE PUBLIC HEARING.