

A RESOLUTION approving a Waiver of Noncompliance for a Late-Filed Compliance with Statement of Benefits Personal Property Improvements (Form CF-1/PP) for 3810 Fourier Drive, (CNC Industries, Inc.) under Confirming Resolution R-19-12

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 3810 Fourier Drive for CNC Industries, Inc. (Confirming Resolution R-19-12) an economic revitalization area 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 forms (SB-1/PP) and economic revitalization area designation application submitted by CNC Industries, Inc. and approved under Confirming Resolution R-19-12 was for \$220,000 in personal property improvements; and

WHEREAS, installation of the personal property for CNC Industries, Inc. was completed in 2012; and

WHEREAS, CNC Industries, Inc. was required to file under I.C. 6-1.1-12.1 and Section 153.21 of the Fort Wayne Code of Ordinances, a Compliance with Statement of Benefits Personal Property (Form CF-1/PP) with the Allen County Assessor and the City of Fort Wayne; and

WHEREAS, Common Council has previously determined on June 24, 2014 under resolution R-35-14 that CNC Industries, Inc. failed to substantially comply with I.C. 6-1.1-12.1 et seq. and Section 153.21 of the Fort Wayne Code of Ordinances for not filing a Compliance with Statement of Benefits Personal Property (Form CF-1/PP) or a corrective filing due May 15, 2014; and

WHEREAS, Common Council pursuant to I.C. 6-1.1-12.-5.9, directed the Fort Wayne Community Development Division to prepare and mail written notice to CNC Industries, Inc. stating the reasons for council's determination of substantial non-compliance and a date, time and place of the hearing for the purpose of further consideration of each owner's circumstances; and

WHEREAS, Common Council also directed CNC Industries, Inc. to apply for and file a Waiver of Non-Compliance pursuant to either I.C. 6-1.1-12.1-9.5 or I.C. 6-1.1-12.1-11.3(a)(5) as may be applicable, and request a waiver by Common Council; and

WHEREAS, CNC Industries, Inc. has properly filed its waiver of non-compliance and Compliance with Statement of Benefits form (CF-1/PP) on August 1, 2014 with the Community Development Division of the City of Fort Wayne, therefore Common Council shall allow the waiver of non-compliance process to proceed and will make a compliance or non-compliance determination and otherwise consider abatement termination issues at a subsequent hearing as part of its determination of CNC Industries, Inc.'s waiver request and application; and

WHEREAS, CNC Industries, Inc.'s approved Statement of Benefits (SB-1) form specified the following:

- 45 full-time jobs would be retained
- three full-time jobs would be created by August 2012
- \$1,646,020 in annual payroll for retained jobs
- \$102,960 in annual payroll would be generated by the created jobs; and

WHEREAS, CNC Industries, Inc.'s 2014 Compliance with Statement of Benefits (CF-1) form filing stated the following:

- 45 jobs were retained
- zero jobs were created
- \$1,811,053 in annual payroll for the 45 jobs retained
- \$0 in annual payroll for the zero jobs created; and

WHEREAS, Common Council designated the City of Fort Wayne Community Development Division as the entity for the administration, application, processing and monitoring of Economic Revitalization Areas under Section 153.13 of the Municipal Code of the City of Fort Wayne; and

WHEREAS, Common Council has defined substantial compliance under Section 153.21 of the Municipal Code of the City of Fort Wayne 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 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 Common Council; and

WHEREAS, meeting 75% of the 45 retained jobs means retaining 33 jobs; and

WHEREAS, meeting 75% of the three jobs to be created means creating two jobs; and

WHEREAS, meeting 75% of the \$1,646,020 in retained annual payroll means \$1,234,515 in annual payroll retained; and

WHEREAS, meeting 75% of the \$102,960 in annual payroll to be created means \$77,220 in annual payroll created; and

WHEREAS, I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3 permit noncompliance events such as the untimely filing of an application, statement of benefits, or another document required to be filed under I.C. 6-1.1-12.1; and

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

WHEREAS, CNC Industries, Inc. **appeared** at the hearing.

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

SECTION 1. That CNC Industries, Inc. appeared and testified at the hearing and from its testimony it was determined that notwithstanding CNC Industries, Inc.'s failure to substantially comply by its failure to create 75% of the three jobs that CNC stated would be created and create 75% of the annual payroll or \$102,960, that Company did make reasonable efforts to substantially comply with the statement of benefits and CNC Industries, Inc.'s failure to substantially comply was caused by factors beyond the control of CNC Industries, Inc.'s. Therefore the continuation of CNC Industries, Inc.'s deduction/abatement under R-19-12 is hereby approved.

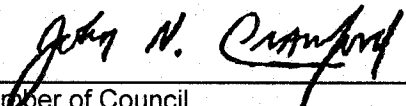
SECTION 2. That, Common Council hereby waives all clerical and technical errors and nonconformities that are waiveable under State and local law, including without limitation those errors and nonconformities described in I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3.

SECTION 3. As authorized by I.C. 6-1.1-12.1-9.5(d), the Common Council will permit CNC Industries, Inc. to continue to receive the economic revitalization area personal property deductions remaining under R-19-12.

SECTION 4. The Allen County Auditor and Allen County Assessor shall be supplied with a copy of this Resolution, upon passage. This resolution shall have no effect on the assessed value, economic revitalization area deductions, or taxes payable with respect to CNC Industries, Inc.'s real property.

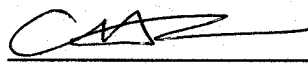
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SECTION 5. That, this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.



Member of Council

APPROVED AS TO FORM AND LEGALITY



Carol Helton, City Attorney

DIGEST SHEET

TITLE OF RESOLUTION: Resolution Approving a Waiver of Noncompliance for a Late-Filed Compliance with Statement of Benefits Personal Property (Form CF-1/PP) for 3810 Fourier Drive (CNC Industries, Inc.) under Confirming Resolution R-68-08

DEPARTMENT REQUESTING RESOLUTION: Community Development Division

SYNOPSIS OF RESOLUTION: This is to approve a waiver of noncompliance for a late-filed economic revitalization area compliance forms for CNC Industries, Inc. on personal property improvements at 3810 Fourier Drive. Fort Wayne Common Council designated and confirmed 3810 Fourier Drive as an economic revitalization area for tax abatement purposes under Confirming Resolution R-68-08.

EFFECT OF PASSAGE: Approval of this resolution and granting of a waiver of noncompliance will allow CNC Industries, Inc. to continue to receive their remaining personal property economic revitalization area deductions.

EFFECT OF NON-PASSAGE: Potential loss of future development by CNC Industries, Inc.

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

ASSIGNED TO COMMITTEE (CO-CHAIRS): Russell Jehl and John Crawford

Public Hearing Date, if applicable _____

Read the first time in full and on motion by Councilman John Crawford
Read the second time by title and referred to the Finance Committee
Committee. Read the third time in full and on motion by Councilman
John Crawford, placed on passage by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>8</u>	<u>1</u>	_____	_____
BENDER	<u>✓</u>	_____	_____	_____
CRAWFORD	<u>✓</u>	_____	_____	_____
DIDIER	<u>✓</u>	_____	_____	_____
HARPER	<u>✓</u>	_____	_____	_____
HINES	<u>✓</u>	_____	_____	_____
JEHL	<u>✓</u>	_____	_____	_____
PADDOCK	_____	<u>✓</u>	_____	_____
SHOAFF	<u>✓</u>	_____	_____	_____
SMITH	<u>✓</u>	_____	_____	_____

DATED: 9-9-14 Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
(ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE
(RESOLUTION) NO. R-76-14 on the 9th day of
September, 2014

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY,
CITY CLERK

Marshall A. Bender
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 10th day
of September, 2014, at the hour of 4:00 o'clock PM. E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 11th day of September
2014, at the hour of 2:00 o'clock PM. E.S.T.

Thomas C. Henry
THOMAS C. HENRY, MAYOR

BILL NO. R-14-08-16

REPORT OF COMMITTEE ON FINANCE

SEPTEMBER 9, 2014

*JOHN CRAWFORD – CHAIR
RUSS JEHL – CO-CHAIR
ALL COUNCIL MEMBERS*

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COMMITTEE OF FINANCE HAVE HAD SAID ORDINANCE under Consideration and beg leave to report back to the Common Council that said ordinance

DO PASS

DO NOT PASS

ABSTAIN

NO REC

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**SANDRA E. KENNEDY
CITY CLERK**