

**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-68-08**

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-68-08) 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 SB-1/Real Property) and economic revitalization area designation application submitted by CNC Industries, Inc. and approved under Confirming Resolution R-68-08 was for \$2,250,000 in personal property improvements and \$1,500,000 in real property improvements; and

WHEREAS, installation of the personal property for CNC Industries, Inc. was completed in 2009; and

WHEREAS, CNC Industries, Inc. did not file for economic revitalization area deduction on the real property improvements; 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:

- 60 full-time jobs would be retained
- 20 full-time jobs would be created by December 2009
- \$2,000,000 in annual payroll for retained jobs
- \$650,000 in annual payroll would be generated by the created jobs

1 **WHEREAS**, CNC Industries, Inc's 2014 Compliance with Statement of Benefits (CF-
2) 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 created; and

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

7 **WHEREAS**, Common Council has defined substantial compliance under Section
8 153.21 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

9 **WHEREAS**, meeting 75% of the 60 retained jobs means retaining 45 jobs; and

10 **WHEREAS**, meeting 75% of the 20 jobs to be created means creating 15 jobs; and

11 **WHEREAS**, meeting 75% of the \$2,000,000 in retained annual payroll means
12 \$1,500,000 in annual payroll retained; and

13 **WHEREAS**, meeting 75% of the \$650,000 in annual payroll to be created means
14 \$487,500 in annual payroll created; and

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

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

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

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

22 **SECTION 1.** That CNC Industries, Inc. appeared and testified at the hearing and
23 from its testimony it was determined that notwithstanding CNC Industries, Inc.'s failure to
24 substantially comply by its failure to create 75% of the 20 jobs that CNC stated would be
25 created and create 75% of the annual payroll or \$650,000, that Company did make
26 reasonable efforts to substantially comply with the statement of benefits and CNC Industries,
27 Inc.'s failure to substantially comply was caused by factors beyond the control of CNC
28 Industries, Inc.'s. Therefore the continuation of CNC Industries, Inc.'s deduction/abatement
29 under R-68-08 is hereby approved.

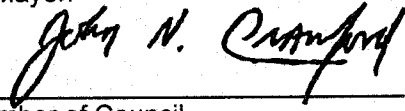
30 **SECTION 2.** That, Common Council hereby waives all clerical and technical errors
and nonconformities that are waiveable under State and local law, including without limitation
those errors and nonconformities described in I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3.

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-68-08.

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

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>5</u>	<u>4</u>	_____	_____
BENDER	<input checked="" type="checkbox"/>	_____	_____	_____
CRAWFORD	<input checked="" type="checkbox"/>	_____	_____	_____
DIDIER	_____	<input checked="" type="checkbox"/>	_____	_____
HARPER	_____	<input checked="" type="checkbox"/>	_____	_____
HINES	<input checked="" type="checkbox"/>	_____	_____	_____
JEHL	_____	<input checked="" type="checkbox"/>	_____	_____
PADDOCK	_____	<input checked="" type="checkbox"/>	_____	_____
SHOAFF	<input checked="" type="checkbox"/>	_____	_____	_____
SMITH	<input checked="" type="checkbox"/>	_____	_____	_____

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-77-14 on the 9th day of
September, 2014

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

Martin 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 P.M. 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

