**ORDINANCE 19-1373**

AN ORDINANCE OF THE CITY OF WOODBURN, INDIANA COMMON COUNCIL

AMENDING ORDINANCE G-00-1114 BY RESCINDING ORDINANCE G-00-1114 AND ADOPTING THE WITHIN ORDINANCE REESTABLISHING CRITERIA FOR THE REVIEW OF APPLICATIONS FOR ECONOMIC REVITALIZATION AREA DESIGNATION IN ITS PLACE

WHEREAS, Indiana Code 6-1.1-12.1-1 *et. seq.*, authorizes certain deductions from the assessed value of certain real and personal property located within areas which have been designated as an Economic Revitalization Areas as defined by I.C. 6-1.1-12.1-1(1); and

WHEREAS, Indiana Code 6-1.1-12.1-2 authorizes a city council to designate Economic Revitalization Areas within a city; and

WHEREAS, Indiana Code 6-1.1-12.1 allows real property tax deductions in an Economic Revitalization Area to be granted for any number of years less than or equal to ten years and personal property deductions in an Economic Revitalization Area to be granted for any number of years less than or equal to twenty years; and

WHEREAS, Indiana Code 6-1.1-12.1-2(g) provides that a city council may, by resolution, establish general standards to be used along with the requirements set forth in the definition of an Economic Revitalization Area as provided in I.C. 6-1.1-12.1-1(1) as may be amended, in finding specific real estate to be an Economic Revitalization Area; and

WHEREAS, Indiana Code 6-1.1-12.1-2(h) provides that an application fee sufficient to defray actual processing and administrative costs may be charged a person requesting the designation of a particular area as an Economic Revitalization Area; and

 WHEREAS, Indiana Code 6-1.1-12.1-2.5 sets forth a minimum procedure that shall be followed by a city council in considering an application for designation of an Economic Revitalization Area; and

 WHEREAS, the Woodburn Common Council (the “Council”) recognizes the need to stimulate employment opportunities and to maintain a sound economy within its jurisdiction; and

 WHEREAS, the Council further recognizes that it would be beneficial to designate certain areas within the City of Woodburn (the “City”) as Economic Revitalization Areas for property tax abatement purposes; and

 WHEREAS, the Council previously determined it would be advantageous to adopt the policies and procedures of Allen County, Indiana, and utilize the Allen County Department of Planning Services economic development division for the administration of the designation of Economic Revitalization Areas; and

 WHEREAS, the Council deems it necessary to reestablish and, in certain instances modify, the provisions of Ordinance G-00-1114 which sets forth the procedures for designating Economic Revitalization Areas and the granting of deductions from assessed valuation of real and/personal property.

 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WOODBURN, INDIANA, to-wit:

SECTION 1. Application Procedures for Designating Economic Revitalization Areas

The Council, in accordance with I.C. 6-1.1-12.1 *et. seq.*, shall make available the opportunity to receive real estate and personal property tax abatement to qualifying applicants/taxpayers located within the corporate limits of the City, using the procedures established by this ordinance.

(A) The economic development division staff of the Allen County Department of Planning Services shall provide a formal application and Statement of Benefits (SB-1) form/s to interested parties.

(1) A proper deduction applicant/taxpayer shall initiate the process by filing a completed and signed application, along with a completed and signed Statement of Benefits (SB-1) form/s, with economic development staff.

 (2) The application shall be accompanied by the established filing fee.

 (a) $500 for real or personal property deduction

 (b) $750 for both real and personal property deduction

 (c) $500 for vacant building deduction only

 (3) Upon receipt of an application, the economic development staff shall:

(a) note the date of filing on the application

(b) review it, and the Statement of Benefits (SB-1) form/s, for completeness

(c) provide the Council with appropriate maps necessary to identify the area for which the applicant/taxpayer requests an Economic Revitalization Area designation along with a simplified description of its boundaries.

(d) provide the applicant/taxpayer written notice of the meeting at which the Council will formally consider the application. The applicant/taxpayer or its representative shall be present at the Council meeting at which the application and Statement of Benefits (SB-1) form/s is/are considered.

(4) After review of the information provided in the application and Statement of Benefits (SB-1) form/s, by the staff, the applicant/taxpayer and other interested persons: the Council may:

(a) find that the real estate under consideration meets the definition and standards of an Economic Revitalization Area, as set forth in I.C. 6-1.1-12.1-1(1) and Section 2 of this ordinance. In such instances, the Council may adopt a declaratory resolution stating the same and cause the action set forth in subsection (5) of this paragraph A to occur. Said declaratory resolution shall include the reasons upon which the determination is made.

(b) find that there is insufficient information and defer action on the matter. The applicant/taxpayer shall be provided written notice of the reasons for deferral.

(c) determine that the real estate should not be designated as an Economic Revitalization Area and provide the applicant/taxpayer written notice thereof.

(5) Upon adoption of a declaratory resolution, the Council shall:

(a) set the date, time, and location for a public hearing at which the Council will receive and hear all comments, remonstrances and objections from interested persons;

(b) cause notice of the adoption and substance of the declaratory resolution to be published in accordance with I.C. 6-1.1-12.1-2.5(c) and I.C. 5-3-1. The notice shall state that a description of the affected area is available and can be inspected in the offices of the Allen County Department of Planning Services, the Allen County Assessor, and the City Clerk-Treasurer. The notice shall also state the time, date, and location of the subsequent public hearing on the matter;

(c) cause a generalized description of the subject real estate to be attached to the declaratory resolution and file same with the Allen County Assessor and the City Clerk-Treasurer;

(d) cause the notice, and a statement containing substantially the same information as the Statement of Benefits (SB-1) form/s submitted by the applicant/taxpayer, to be filed at least ten (10) days before the date of the public hearing on the matter with each taxing unit that has authority to levy property taxes or fix budgets, tax rates and tax levies within the geographical area where the affected area subject of the declaratory resolution is located.

(6) Upon considering the evidence presented at the public hearing, the Council shall take final action on the request for designation by either confirming, modifying and confirming, or rescinding the subject declaratory resolution. The applicant/taxpayer(s) or its representative shall be present at the public hearing to provide such information as may be needed.

(7) The determination of the confirmatory resolution made pursuant to subsection (6) of this paragraph A shall be final except that an appeal may be taken as provided in I.C. 6-l.1-12.1-2.5(d) and I.C. 6-1.1-12.l-2.5(e).

(8) Upon confirming, or modifying and confirming, a declaratory resolution by the procedures set forth herein, the Allen County Auditor and the economic development division shall keep a record of the designation of the subject Economic Revitalization Area. The economic development division staff shall provide the Allen County Auditor with a final designation packet to be utilized in the review of applications for deduction pursuant to I.C. 6-1.1-12.1-5, I.C. 6-1.1-12.1-5-4.8, and I.C. 6-1.1-12.1-5.4.

(B) The economic development division staff of the Allen County Department of Planning Services shall not review application for economic revitalization area status for any of the facility types noted below, whether or not said facility is located within an economic development target area:

 (1) Massage parlor;

 (2) Hot tub facility;

 (3) Racetrack;

(4) Tobacco store or facility where tobacco or tobacco products comprise the majority (greater than 50%) of sales;

 (5) Arcade facility or facility with primarily arcade games;

(6) Sales, warehousing, distribution or servicing facility where guns or other types of weaponry and/or ammunition of any type comprise the majority (greater than 50%) of sales, whether or not used for purposes of sport;

 (7) Pawn shop;

(8) Package liquor store that holds a liquor dealer’s permit under Indiana Code (I.C. 7.1-3-10) or any other entity required to operate under a license issued under I.C. 7.1 et seq.

Notwithstanding the foregoing restrictions in subsection (8) of this paragraph, an applicant/taxpayer may submit an application for Economic Revitalization Area designation, for personal property deduction only, for entities operating wholesale operations under a license issued under Indiana Code (I.C. 7.1-3-3, I.C. 7.7-3-8, or I.C. 7.1-3-13); provided, however, that an applicant/taxpayer applying for a personal property deduction noted herein shall not be eligible to make said application or have said application approved if the applicant/taxpayer is also licensed to do business under any other section contained in I.C. 7.1 et seq.

(C) Applications will be evaluated and the information provided within will be applied toward the point system to determine the recommended length of the abatement. Unless otherwise provided in, or limited by, paragraphs (D), (F), (H), (I) and (J) of this Section or as otherwise provided by this ordinance, abatements can be granted for a period of three, five, seven or ten years for both real and personal property as determined by the point system.

(D) For applications that include personal property, the applicant/taxpayer shall provide the expected life of each asset (piece of equipment) for depreciation purposes. The abatement period for personal property may be limited to a term that is less than the depreciable life of the asset.

(E) For applications that include new manufacturing equipment, as defined in I.C. 6-1.1-12.1-1(3), the applicant/taxpayer shall indicate whether “special tools” (as defined by Indiana Administrative Code Title 50 Department of Local Government Finance, Article 4.2 Assessment of Tangible Personal Property) are included in the new manufacturing equipment. Special Tooling may be limited to a one-year abatement term.

(F) For applicants/taxpayers indicating that there is a retail component to their facility, they must also indicate, by percentage of overall business, to what extent the facility contains retail activities.

(1) Anything less than ten percent (10%) shall be considered a *de minimus* amount, while any amount above fifty percent (50%) will make any application for the redevelopment or rehabilitation of real estate ineligible for abatement, unless located within a designated economic development target area designated by the Council by ordinance pursuant to I.C. 6-1.1-12.1-7 and not defined as ineligible under Indiana Code (I.C. 6-1.1-12.1-3(e)).

(2) For retail percentages between 10% and 50%, only the non-retail percentage of the total investment shall be included in the abatement deduction amount.

Notwithstanding the foregoing, when a facility is located within a designated economic development target area and not defined ineligible under Indiana Code (I.C. 6-1.1-12.1-3(e)), then a ten year deduction may be granted without adhering to the point system.

(G) For applicants/taxpayers that are service-based businesses, the following criteria must be met to be eligible for abatement:

(1) More than 25% of the customer base for the service-based business is located outside of Allen County, Indiana OR more than 25% of the annual gross revenue of the service-based business is generated by customers located outside of Allen County; or

(2) The amount of the investment for which the abatement is being sought by the applicant/taxpayer is $5,000,000 or more.

 For purposes of this paragraph, a ”service-based business” means a commercial enterprise that derives more than 50% of its annual gross revenue directly from labor performed in an expert manner by an individual or team for the benefit of its customers/clients as opposed to the sale of tangible goods and/or products. The definition includes, without limitation, businesses such as law firms, accounting firms, consulting firms, financial services firms, insurance agencies, marketing/advertising agencies, and medical and dental practices. The definition does not include retail establishments, the eligibility of which is determined under I.C. 6-1.1-12.1-3(e).

(H) Applicants/taxpayers for a deduction involving the redevelopment or rehabilitation of a speculative building may receive a ten-year phased deduction without adhering to the point system. For purposes of this paragraph, a “speculative building” means a building development, construction, or rehabilitation of at least 50,000 square feet that is reasonably likely to create new jobs when the developer has no formal commitment from a buyer or tenant to purchase or lease the end product, whether the end product is a fully completed, move-in ready building or a partially completed shell suitable for build-out improvements by the future owner or tenant. Additional incentives for the final build out and personal property (equipment) may be considered upon the identification of the end user. Any additional incentives will adhere to the point system for real and personal property abatement at the time of submittal.

(I) The owner of an eligible vacant building, as defined in I.C. 6-1.1-12.1-1(17), is entitled to a deduction from the assessed value of the building if the applicant/taxpayer or tenant of the applicant/taxpayer occupies the eligible vacant building and uses it for commercial or industrial purposes:

(1) An applicant/taxpayer is entitled to the deduction for no more than two years with the deduction schedule as follows:

 Year 1 = 100% deduction

 Year 2 = 50% deduction

(J) The criteria for a twenty (20) year personal property deduction are as follows:

(1) The applicant/taxpayer will create at least One Thousand (1,000) new jobs within two years of submitting its application

(2) The applicant/taxpayer will invest at least Five Hundred Million Dollars ($500,000,000.00) in eligible personal property.

(3) The amount of income taxes generated by the new jobs will be equal to or exceed the value of the deduction after ten (10) years.

Per I.C. 6-1.1-12.1-18(e), Council will hold a public hearing for any abatement schedule that exceeds ten (10) years to review the applicant/taxpayer’s Compliance with Statement of Benefits (Form CF-1) after the tenth (10th) year.

The deduction schedule for a twenty (20) year deduction is as follows:

Year 1 100%

Year 2 95%

Year 3 90%

Year 4 85%

Year 5 80%

Year 6 75%

Year 7 70%

Year 8 65%

Year 9 60%

Year 10 55%

Year 11 50%

Year 12 45%

Year 13 40%

Year 14 35%

Year 15 30%

Year 16 25%

Year 17 20%

Year 18 15%

Year 19 10%

Year 20 5%

SECTION 2. RESIDENTIALLY DISTRESSED AREA DESIGNATION

1. Upon appropriate request, the Council may, after following the same procedures as required to declare an Economic Revitalization Area, designate as a Residentially Distressed Area, a particular area which is located within the corporate limits of the City and meets all the following criteria specified in IC 6-1.1-12.1-2(b):

(1)   The area is comprised of parcels that are either unimproved or contain only one- or two- family dwellings or multi-family dwellings designed for up to four families, including accessory structures for those dwellings;

(2)   Any dwellings in the area are not permanently occupied and are either:

          (a)   the subject of an order issued under IC 36-7-9; or

         (b)   evidencing significant building deficiencies; and

(3)   Parcels of property in the area either:

          (a)   have been sold and not redeemed under IC 6-1.1-25; or

         (b)   are owned by a unit of local government.

(B)    As an alternative to the findings required by division (A) above, the Council may designate as a Residentially Distressed Area, a particular area which is located within the corporate limits of the city and meets all the following alternative criteria specified in IC 6-1.1-12.1-2(c):

 (1)   A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land;

 (2)   A significant number of dwelling units within the area are either:

        (a)   the subject of an order issued under IC 36-7-9; or

          (b)   evidencing significant building deficiencies;

(3)   The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the area is owned by Indiana or the United States; and

(4)   The area (plus any areas previously designated under this paragraph) will not exceed 10% of the total area within the Council's jurisdiction.

(C)    Any property designated as a Residentially Distressed Area under paragraphs (A) or (B) above must also fulfill the following obligations for the applicant/taxpayer to receive a deduction:

(1)   Dwellings built or rehabilitated on the property must meet local code standards for habitability;

(2)   Dwellings must be built or rehabilitated on the property within two years of the date of designation as a residentially distressed area.

(D)    The deduction awarded for property located in a residentially distressed area shall be available for a period of five years. The amount of the deduction the owner of the property is entitled to receive for each particular year equals the product of:

 (1)   The increase in the assessed value resulting from the rehabilitation or redevelopment; multiplied by:

 (2)   The following percentages for each year that the deduction may be taken:

Year Percentage

1 100%

2 80%

3 60%

4 40%

5 20%

Section 3. Community Benefit Review

The Council shall consider all findings of fact pertaining to an application for tax abatement.

(A) The Council, in its deliberations, may, pursuant to I.C. 6-1.1-12.1-2, give consideration to the following general standards to determine if:

(1) the proposed use of the real estate for which a deduction is being sought is consistent with the land use policies contained in the Allen County Comprehensive Plan adopted by the Council;

(2) the deduction will assist in the inducement of a project that will result in the retention and/or creation of substantial employment opportunities relative to the value of the investment;

(3) the deduction 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;

(4) the deduction will encourage the improvement or replacement of deteriorated or obsolete manufacturing, research and development, logistical distribution, and information technology equipment;

(5) the deduction will assist in the inducement of a project which would provide long-term benefits to the tax base of the City and Allen County, Indiana, warranting the granting of abatement.

(B) In all instances, the Council shall find that evidence has been provided either in the application or during the public hearing that the real estate proposed for designation is either in an area "which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property" or, "where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues" or, when applicable, been found to be a residentially distressed area pursuant to I.C. 6-1.1-12.1-2.

(C) The Council shall not consider an application for designation, unless a waiver of noncompliance has been granted pursuant to I.C. 6-1.1-12.1-11.3, if prior to the filing of the application

(1) an Improvement Location Permit has been filed for the project at the Allen County Department of Planning Services,

(2) a Building Permit for the subject rehabilitation has been filed for the project at the Allen County Building Department, or

(3) when personal property for which a deduction is being sought has been installed (as defined in Indiana Administrative Code Title 50 Department of Local Government Finance, Article 4.2 Assessment of Tangible Personal Property)

Section 4. Compliance with Statement of Benefits (CF-1) Annual Review

The applicant/taxpayer shall provide economic development staff with an annual report (Compliance with Statement of Benefits, Form CF-1) showing the extent to which there has been compliance with the Statement of Benefits (SB-1) form. The CF-1 form must be filed with the Allen County Auditor, the economic development division staff, and the City Clerk Treasurer, according to the filing schedule required by I.C. 6-1.1-12.1-5.1, I.C. 6-1.1-12.1-5.3(j), and I.C. 6-1.1-12.1-5.6.

1. Economic development division staff shall analyze all CF-1 forms and compile a

summary sheet and findings of fact to present to the Council from which a determination of substantial compliance or non-compliance will be made.

1. Economic development division staff shall use the following review procedure of CF-1 forms
2. The first step in the review process compares the CF-1 form to the Statement of Benefits (SB-1) form approved by Council to find whether the project substantially complies with the SB-1. Substantial compliance shall be defined as:
3. Creating or retaining at least 75% of the total number of full-time and/or part-time jobs delineated in the approved Statement of Benefits (SB-1) form; and/or;
4. Creating or retaining at least 75% of the total salaries delineated in the approved Statement of Benefits (SB-1) form,

within the timeframe projected in the applicant/taxpayer’s approved Statement of Benefits (SB-1) form

1. If the project is deemed not to be in substantial compliance in the first step, the staff shall investigate further whether the applicant/taxpayer made a reasonable effort to substantially comply and whether the applicant/taxpayer’s failure to substantially comply was caused by factors beyond their control. Staff will:
2. examine whether the investment in real estate or personal property equals or exceeds 75% of the investment delineated in the approved Statement of Benefits (SB-1) form within the projected timeframe; and
3. contact the person listed as the contact person on the CF-1 form to seek an explanation as to why the project is not in substantial compliance. The staff may request the explanation be provided in writing.

If the staff finds, based on the second step, that the applicant/taxpayer made a reasonable effort to substantially comply, and that the applicant/taxpayer’s failure to substantially comply was caused by factors beyond the control of the applicant/taxpayer, the project will be considered in substantial compliance for purposes of the CF-1 form. If the staff finds, based on the second step, that the applicant/taxpayer did not make a reasonable effort substantially comply, and that its failure to substantially comply was not caused by factors beyond the applicant/taxpayer’s control, the project will be considered not in substantial compliance for purposed of the CF-1 form. Staff will provide a report summarizing the staff’s findings to the Council from which the Council can make a determination as to whether the project should or should not be deemed to be in substantial compliance.

1. The Council will review the CF-1 forms using the following criteria
2. Employment
3. number of employees retained (jobs retained)
4. number of additional employees (jobs created)
5. Salaries
6. salaries of employees retained (Salaries Retained)
7. salaries of additional employees (Salaries Created)
8. Investment (Values of Proposed Project)
9. real estate: cost of real estate improvements
10. personal property: cost of new manufacturing, new research and development, new logistical distribution and new information technology equipment
11. State law provides that within forty-five (45) days after an applicant/taxpayer files a CF-1 form, the Council shall determine whether the applicant/taxpayer has substantially complied with the Statement of Benefits (SB-1) form. Those forms that are found by the staff not to be in substantial compliance will be brought to the attention of the Council first for the Council to determine what further action is necessary. However, since the forty-five (45) day time period only limits the Council’s ability to pursue terminating a deduction, those that are found to be in compliance will be submitted for formal approval with a final report following the end of the filing period.
12. If an applicant/taxpayer fails to file a CF-1 form by the filing deadline, fails to file a CF-1 form that provides sufficient information (as determined by staff) to determine substantial compliance, or the circumstances are such that the staff has information indicating that the information provided on the CF-1 form may be inaccurate, the staff will make a reasonable effort to contact the applicant/taxpayer to obtain a complete and accurate CF-1 form. If the applicant/taxpayer still fails to provide a complete and accurate CF-1 form, then the staff will bring the failure to the attention of the Council for the Council to determine whether the project should be deemed not to be in substantial compliance. The staff, working with the Allen County Auditor’s Office, will monitor applicants/taxpayers who have receive a SB-1 approval from the Council and who are eligible to receive a tax abatement deduction, to facilitate the timely and accurate submission of CF-1 forms.
13. The staff’s determination that the project fails to substantially comply with a Statement of Benefits does not necessarily mean that the abatement will be rescinded. If the Council, based on the information provided by the staff, determines that a project is not in substantial compliance, the staff will mail official notification to the applicant/taxpayer and schedule a hearing with the Council pursuant to I.C. 6-1.1-12.1-5.9. The hearing will be held within thirty (30) days after the date on which the notice is mailed.
14. Based on the evidence presented at the hearing by the applicant/taxpayer and other interested parties, the Council shall determine whether the applicant/taxpayer has made reasonable efforts to substantially comply with the Statement of Benefits and, whether any failure to substantially comply was caused by factors beyond the control of the applicant/taxpayer. If the Council determines that the applicant/taxpayer has not made reasonable efforts to comply with the Statement of Benefits, the Council shall adopt a resolution terminating the applicant/taxpayer’s deduction under the authority of I.C. 6-1.1-12.1-5.9(c).
15. An applicant/taxpayer (or, in the case of a deduction for an eligible vacant building, the applicant/taxpayer or tenant of the applicant/taxpayer) that has received a deduction for real property or personal property and:

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

1. is found to have intentionally provided false information concerning plans to continue operations at the facility,

may be required to repay to the Allen County Treasurer, under the authority of I.C. 6-1.1-12.1-12, those property taxes that were deducted, if the Council has adopted a resolution incorporating the provisions of that section for the Economic Revitalization Area.

Section 5. Waivers of Noncompliance

(A) Indiana State law I.C. 6-1.1-12.1-9.5 and 6-1.1-12.1-11.3, allows the designating body waive noncompliance for the following:

(1) failure to submit a statement of benefits prior to a public hearing,

(2) failure to designate an economic revitalization area (ERA) or submit a statement of benefits prior to construction of a facility and/or installation of equipment,

(3) failure to make the necessary findings of fact as required in I.C. 6-1.1-12.1-2, 3, 4.5 or 4.8 before designating an area as an ERA or authorizing a deduction for new equipment,

(4) failure to file a timely and complete deduction application as required by I.C. 6-1.1-12.1-5, 5.3 and 5.4,

(B) Waivers of noncompliance should only be considered for those applicants/taxpayers in compliance with local and state governmental entities.

(1) Applicants/taxpayers must verify that they are not delinquent on any taxes owed (property, income or sales), their Compliance with Statement of Benefits (CF-1) form/s have been filed on time and are substantially compliant, and there are no outstanding state or federal environmental issues.

(2) Staff will verify and affirm that applicants/taxpayers have met all above criteria.

(C) For an applicant/taxpayer to begin the waiver process, the applicant/taxpayer must first contact economic development division staff in the Allen County Department of Planning Services.

(1) If staff determines that a waiver is needed, a formal request from the applicant/taxpayer should be made in writing explaining the circumstance(s).

(2) The applicant/taxpayer will also need to address the steps needed to correct the problem and the actions the applicant/taxpayer will take to correct further problems from occurring.

(D) The following procedures shall be followed:

(1) Waiver of noncompliance for failure to file timely application and Statement of Benefits (SB-1) form/s

(a) For personal property, waivers will only be considered on equipment installed within one month prior to date application is received.

(b) For real property, waivers will only be considered on applications where an applicant/taxpayer has applied for an Improvement Location Permit/Structural Permit one month prior to date application is received.

(c) A fee of $500 will be required to offset the costs incurred.

 (2) Waiver of noncompliance for failure to file timely deduction paperwork

(a) Personal property waivers will only be considered for failure to file 103-ERA and 103-EL paperwork within the last twelve (12) months or one year

(b) Real property waivers will only be considered for failure to file Form 322/RE within the last twelve (12) months or one year.

(c) The Council may not grant waivers for applicants/taxpayers who have failed to file deduction paperwork more than once during the deduction period.

 (d) A fee of $500 will be required to offset the costs incurred.

 (3) Waivers of noncompliance for clerical errors

(a) Personal property waivers will only be considered on clerical errors made by the applicant/taxpayer that affect the proper reporting of project location, project or investment timeframe, and cost of investment.

(b) Real property waivers will only be considered on clerical errors made by the applicant/taxpayer that affect the proper reporting of project location, project or investment timeframe, and cost of investment.

 (c) A fee of $500 will be required to offset the costs incurred.

SECTION 6. Exclusions

Notwithstanding the procedures set forth in Section 1 of this ordinance, the Council shall not designate real estate as an Economic Revitalization Area if any portion of the subject property is located with an "allocation area", as defined in I.C. 36-7-14-39 or I.C. 36-7-15.1-26, unless the Allen County Board of Commissioners has first adopted a resolution consenting to the subject designation.

SECTION 7. Delegation of Responsibility

The Council does hereby designate the Allen County Department of Planning Services economic development division as the administrative agency for processing applications for the designation of Economic Revitalization Areas and undertaking the other actions designated thereto under this ordinance. The economic development division, in conducting its responsibilities under this delegation, may undertake the following actions:

(A) keep abreast of changes in the state enabling legislation and communicate changes to members of the Council;

(B) develop and implement procedures to address changes in the state enabling legislation;

(C) maintain an appropriate application form that is consistent with state law and Council procedures;

(D) accept applications for designation and collect the required filing fee to be collected pursuant to this ordinance;

(E) review said applications for completeness and provide Council with supporting data necessary to properly consider such requests;

(F) establish guidelines to evaluate applications in order to determine the length of the abatement period;

(G) prepare public review files required by I.C. 6-1.1-12.1-2.5(c);

(H) prepare and cause to be published legal notice of the Council’s consideration of said application as required in I.C. 6-1.1-12.1-2.5(c) and I.C. 5-3-1;

(I) prepare draft declaratory and confirmatory resolutions for the Council’s review and consideration;

(J) keep records of all properly filed applications and duly designated Economic Revitalization Areas;;

(K) act on behalf of the Council in corresponding with the applicant/taxpayer(s) and other interested persons regarding the status of an application;

(L) prepare and provide the Allen County Auditor with a final designation packet which shall include information necessary for the review of applications for deduction pursuant to I.C. 6-1.1-12.1-5, I.C. 6-1.1-12.1-5.3, and I.C. 6-1.1-12.1-5.4

(M) evaluate annual reports (CF-1 forms) submitted by applicants/taxpayers under Section 4 of this ordinance and provide a report to the Council within forty-five (45) days summarizing compliance of reporting companies;

Adopted and Resolved this 3rd day of September, 2019.

**< SIGNATURES ON NEXT PAGE >**

**COMMON COUNCIL OF THE CITY OF WOODBURN, INDIANA**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ YEA\_\_\_\_\_ NAY\_\_\_\_\_ ABS\_\_\_\_\_

 Daniel Watts, Councilman

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ YEA\_\_\_\_\_ NAY\_\_\_\_\_ ABS\_\_\_\_\_

 Mike Voirol, Councilman

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ YEA\_\_\_\_\_ NAY\_\_\_\_\_ ABS\_\_\_\_\_

 Dean Gerig, Councilman

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ YEA\_\_\_\_\_ NAY\_\_\_\_\_ ABS\_\_\_\_\_

 John Renner, Councilman

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ YEA\_\_\_\_\_ NAY\_\_\_\_\_ ABS\_\_\_\_\_

 Michael Martin, Councilman

ATTEST:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Timothy Cummins, Clerk-Treasurer

The foregoing ordinance passed by the Council is signed and approved ( ) / not approved ( ) by me on the same date.

 By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Joseph Kelsey, Mayor for the City of Woodburn