

THIRD SUBSTITUTE VERSION

ORDINANCE NO. 25-10

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, AMENDING VARIOUS SECTIONS OF CHAPTER 2, ARTICLE 6 OF THE
SOUTH BEND MUNICIPAL CODE PERTAINING TO TAX ABATEMENTS**

STATEMENT OF PURPOSE AND INTENT

On August 15, 2003 this Council effectuated Ordinance #9394-03 to improve the tax abatement procedure for the City of South Bend, and to articulate its purpose and philosophy. It is now time again to assure that tax abatement (**also known as tax phase-in**) promotes mutual benefit to both the City and the abatement recipient. Through this ordinance, tax abatement recipients will provide South Bend with jobs that pay wages and benefits adequate for workers to be self sufficient. Recipients will be encouraged to construct energy efficient buildings and include persons recruited from historically underprivileged groups. This ordinance is intended to achieve the objective of granting tax abatements which assure South Bend of an economically and socially beneficial return, in the best interest of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, as follows:

Section I. Chapter 2, Article 6, Sections 2-76.1, 2-76.3, 2.76.4, 2-77.1, 2.84.2, 2-84.7, 2.84.9, 2.84.10, 2-84.12, and 2-84.13 are hereby amended to read as follows:

Sec. 2-76.1. Definitions, interpretation and area maps.

(a) For purposes of this article, unless the context otherwise requires, a term that begins with an upper case letter has the meaning assigned in the sentence in which it appears within quotation marks; and the following words and phrases have the meanings set forth below.

(1) *Airport Economic Development Area* and *AEDA* mean the area located within the City's corporate boundaries designated by the South Bend Redevelopment Commission and the Common Council, as amended from time to time, and filed with the City Clerk's Office with notice to the President of the South Bend Common Council and the Chair of the South Bend Common Council's Community and Economic Development Committee.

(2) *Available for use* means publicly advertised at rates not to exceed Section 8 Rental Guidelines for the unit size.

(3) *Central Business District* and *CBD* mean the area located within the City's corporate boundaries designated by the South Bend Redevelopment Commission and the Common Council, as amended from time to time, and filed with the City Clerk's Office with notice to the President of the South Bend Common Council and the Chair of the South Bend Common Council's Community and Economic Development Committee.

(4) *City* means the City of South Bend, Indiana.

(5) *City Clerk* means the City Clerk of the City of South Bend, Indiana.

(6) *Council* means the Common Council of the City of South Bend, Indiana.

(7) *Designating body* means the Common Council of the City of South Bend, Indiana.

(8) *Community and Economic Development Department* means the Community and Economic Development Department of the City of South Bend, Indiana.

(9) *County Assessor* means the Assessor of St. Joseph County, Indiana.

(10) *County Auditor* means the Auditor of St. Joseph County, Indiana

(11) *East Bank Development Area* and *EBDA* mean the area located within the City's corporate boundaries designated by the South Bend Redevelopment Commission and the Common Council, as amended from time to time, and filed with the City Clerk's Office with notice to the President of the South Bend Common Council and the Chair of the South Bend Common Council's Community and Economic Development Committee.

~~Beginning at the intersection of the south right-of-way line of Jefferson Boulevard and the east right-of-way line of Hill Street, the Point of Beginning ("Point of Beginning") for this description; thence west along said south right-of-way line to the projected centerline of the St. Joseph River; thence meandering northwesterly, northeasterly and north along said centerline to the westerly projection of the south right-of-way of Corby Street; thence east along said projection and the south right-of-way line of said Corby Street to the centerline of the first fourteen-foot alley lying west of Hill Street; thence south along said centerline to the north right-of-way line of Crescent Avenue; thence southeasterly to the point of intersection of the south right-of-way line of said Crescent Avenue with the centerline of the first fourteen-foot alley lying west of said Hill Street; thence southeasterly, southwesterly and south along the centerline of said alley to the centerline of the first fourteen-foot alley lying north of Cedar Street; thence east along said centerline to the centerline of the first fourteen-foot alley lying east of Hill Street; thence south along said centerline to the south right-of-way line of~~

~~Jefferson Boulevard; thence west along said right-of-way line back to the Point of Beginning.~~

(12) Economically Distressed Area means those Census Tracts in the City that the Council determines have the highest levels of poverty and unemployment, and the lowest levels of median income. According to the 2000 Census, these are currently tracts 20, 21, 23, 19, 6, 29, 10, 27, 17, 1, 30, 22, 24, 5, and 4. Beginning with the release of the 2010 Census data, and for each subsequent Census, the following process shall be followed to determine the 15 Census Tracts that will be included in the Economically Distressed Area: (1) For each census tract in South Bend, calculate the following from the decennial census: the poverty rate (from Table P87), median household income (from Table P53), and the unemployment rate (from Table P43); (2) Assign each census tract 3 ranks, one each for poverty, income, and unemployment, with the lowest ranks for those Census tracts with the highest poverty and unemployment rates and the lowest income; (3) Add each of the 3 ranks together to get a total for each census tract. The 15 census tracts with the lowest total scores are included in the Economically Distressed Area. A map of the Economically Distressed Area is available in the City Clerk's Office and on the City of South Bend's website.

~~(12)~~ (13) Economic Development Target Area and EDTA mean the area located within the City's corporate boundaries designated by the Economic Development Commission as amended from time to time, and filed with the City Clerk's Office with notice to the President of the South Bend Common Council and the Chair of the South Bend Common Council's Community And Economic Development Committee. A maximum of fifteen (15) percent of the total geographic territory of the City may be designated as Economic Development Target Areas.

~~(13)~~ (14) Economic Revitalization Area and ERA have the meaning set forth in IC 6-1.1-12.1-1 et seq.

~~(14)~~ (15) Hard-dollar costs means expenses directly related to the proposed new construction or rehabilitation excluding costs of land, financing, architect, engineering, and attorney fees.

~~(15)~~ (16) Industrial development means and includes the economic activities described in major groups 31 through 33 of the North American Industry Classification System--United States, 2002 manual published by the United States Office of Management and Budget's Economic Classification Policy Committee, which manual is hereby incorporated by reference, with copies being maintained in the Office of the City Clerk.

~~(16)~~ (17) Institutional development means the development of ~~day care or educational facilities~~ day care, educational, medical or governmental facilities that are both privately owned and taxable.

~~(17)~~ (18) *Local company* means a legal entity that the Council deems to have **its principal place of business in St. Joseph County, Indiana, or those Indiana counties located immediately adjacent to St. Joseph County.** ~~an existing substantial place of business located in St. Joseph County. The place of business may be an office or other facility. It must contain multiple staff, be equipped to carryout the entity's normal lines of business and be a permanent facility in St. Joseph County that has been in continuous operation for a minimum of six months.~~

(18) (19) *Low and moderate income individuals or families* means those persons who qualify under the Department of Housing and Urban Development, Section 8 income requirements, as it may be amended from time to time.

~~(19)~~ (20) *Minority* means:

- a. Black (i.e., all persons having origins in any of the Black African racial groups not of Hispanic origin);
- b. Hispanic (i.e., all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race);
- c. Asian and Pacific Islander (i.e., all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);
- d. American Indian or Alaskan Native (i.e., all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification);

~~(20)~~ (21) *Mixed use* means any mix of two (2) or more of the following uses only: office, retail, multi-family housing, or hotel uses.

(22) *Multi-Family Housing* means a facility with five or more contiguous residential units. *Single Family Housing* includes up to four contiguous residential units.

~~(21)~~ (23) *New Information Technology Equipment* has the meaning set forth in IC 6-1.1-12.1-1 et seq.

~~(22)~~ (24) *New Logistical Distribution Equipment* has the meaning set forth in IC 6-1.1-12.1-1 et seq.

~~(23)~~ (25) *New Manufacturing Equipment* has the meaning set forth in IC 6-1.1-12.1-1 et seq.

~~(24)~~ (26) *New Personal Property* includes New Manufacturing Equipment, New Research and Development Equipment, New Logistical Distribution Equipment and New Information and Technology Equipment, all having the meaning set forth in IC 6-1.1-12.1-1 et seq.

~~(25)~~ (27) *New Research and Development Equipment* has the meaning set forth in IC 6-1.1-12.1-1 et seq.

(28) *Office Development*, for purposes of this tax abatement ordinance, is intended to house certain of the economic activities described in major groups listed in the *North American Industry Classification System--United States, 2002* manual published by the United States Office of Management and Budget's Economic Classification Policy Committee, which manual is hereby incorporated by reference, with copies being maintained in the Office of the City Clerk. The major groups are: 52 (except subgroups 5221 and 5222), 53 (includes only subgroups 5311, 5312, 5313 5331) 54, 55, 56 (except subgroups 5616, 5617, 5619, 5621, 5622 and 5629), 62 (includes only sub groups 6211, 6212, 6213, 6214, 6215, 6216, 6241), and 92 (excludes subgroups 9221 and 9271). Other economic activities may be considered by the Common Council on a case-by case basis, however, such activities, including those listed above, must fit within and complement the surrounding neighborhood environment.

~~(26)~~ (29) *Property* has the meaning set forth in IC 6-1.1-12.1-1 et seq.

~~(27)~~ (30) *Redevelopment* has the meaning set forth in IC 6-1.1-12.1-1 et seq.

~~(28)~~ (31) *Redevelopment Blighted Area* and *RBA* mean real Property meeting the standards set forth in IC 6-1.1-12.1 et seq., excluding the South Side Development Area.

~~(29)~~ (32) *Rehabilitation* has the meaning set forth in IC 6-1.1-12.1-1 et seq.

~~(30)~~ (33) *Related Party* means any person who is related within the meaning of Section 267 of the Internal Revenue Code (i.e., United States Code, Title 26, Subtitle A, Chapter 1, Subchapter B, Part IX, Section 267).

~~(31)~~ (34) *Residentially Distressed Area* and *RDA* mean an area that meets any of the following findings as declared by the Council:

- a. The area is comprised of parcels that are either unimproved or contain only one (1) or two (2) family dwellings or multi-family dwellings designed for up to four (4) families, including accessory buildings for those dwellings; or

- b. Any dwellings in the area are not permanently occupied and are:
 - 1. The subject of an order issued under IC 36-7-9; or
 - 2. Evidencing significant building deficiencies; or

- c. Parcels of property in the area:
 - 1. Have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or
 - 2. Are owned by a unit of local government; or
 - 3. A significant number of dwellings within the area are not permanently occupied or a significant number of parcels in the area are vacant land; or
 - 4. A significant number of dwelling units within the area are:
 - (i) The subject of an order issued under IC 36-7-9; or
 - (ii) Evidencing significant building deficiencies; or
 - 5. 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; or
 - 6. The area (plus any areas previously designated under this subsection) will not exceed ten (10) percent of the total area within the Council's jurisdiction.

~~(32)~~ (35) *Retail* means and includes the economic activities described in major groups 44 through 45 of the *North American Industry Classification System--United States, 2002* manual published by the United States Office of Management and Budget's Economic Classification Policy Committee, which manual is hereby incorporated by reference, with copies being maintained in the Office of the City Clerk.

~~(33)~~ (36) *South Side Development Area* and *SSDA* mean the area located within the City's corporate boundaries designated by the South Bend Redevelopment Commission and the Common Council, as amended from time to time, and filed with the City Clerk's Office with notice to the President of the South Bend Common Council and the Chair of the South Bend Common Council's Community And Economic Development Committee.

~~(34)~~ (37) *Tax Abatement Impact Areas* and *TAIA* mean the area located within the City's corporate boundaries designated by the South Bend Common Council, as amended from time to time, and on file with the City Clerk's Office.

~~(35)~~ (38) *Tax Increment Allocation Areas* and *TIAA* have the meaning set forth in IC 36-7-14-39(a).

~~(36)~~ (39) *Urban Enterprise Zone* and *UEZ* mean the area located within the City's corporate boundaries designated by the Urban Enterprise Association and South Bend Common Council, as amended from time to time, and on file with the City Clerk's Office.

~~(37)~~ (40) *Warehouse Development* means and includes the economic activities described in major groups 423, 424, 425, 421, ~~422~~, and 493 of the *North American Industry Classification System--United States, 2002* manual published by the United States Office of Management and Budget's Economic Classification Policy Committee, which manual is hereby incorporated by reference with copies being maintained in the Office of the City Clerk.

~~(38)~~ (41) *Workforce Development Services* and *WDSA* mean Workforce Development Services of St. Joseph County or its successor agency.

(b) Any term not otherwise defined in this article has the meaning ascribed to it in IC 6-1.1-12.1-1 et seq.

(c) All defined terms are to be interpreted that the singular includes the plural and *vice versa* as indicated by the context.

(d) The terms "including", "such as", and similar terms, when used as part of a phrase containing one or more specific items, are to be interpreted as being used by way of example and not of limitation.

(e) All references to provisions of the *Indiana Code*, the *Municipal Code of South Bend*, and the *United States Code* are to be interpreted as meaning these provisions as they exist on the effective date of the ordinance from which this article derives and as they may be amended in the future.

(f) Accurate and current maps of all areas defined in this section with legal descriptions are available in the Office of the City Clerk and are printed at the end of this Article. Larger versions of said maps are available for public inspection in the Office of the City Clerk and in the Community and Economic Development Department during regular business hours. Said maps may also be accessed on the City's website at <http://www.southbendin.gov>.

Sec. 2-76.3. Base abatement.

A base abatement ("base abatement") is an abatement for three (3) years in the case of real property other than single-family residential, five (5) years in the case of real property that is single-family residential, and five (5) years in the case of personal property. The Council may grant a base abatement to an applicant who fulfills the following requirements:

(1) The applicant's proposed project meets the requirements set forth in sections 2-77 through 2-83.3 for real property or section 2-84.2 for personal property.

(2) The Council deems the applicant's proposed project likely to generate within a ten-year period financial returns (i.e., revenue from sources such as new real or personal property taxes, additional or retained county option income taxes, payments-in-lieu of taxes, private contributions, and public user fees) and other economic and social benefits to the community sufficient to justify the costs that would be incurred by the City for municipal infrastructure improvements (including water, sewer and drainage facilities; wastewater treatment facilities; road, street and alley improvements; street lighting; and traffic control) and additional municipal services needed to enable or directly benefit the project.

(3) The applicant has executed a memorandum of agreement ("memorandum of agreement") prepared by the Community and Economic Development Department. The memorandum of agreement is a legally binding agreement representing a contractual relationship between the applicant and the Council. It may become effective upon the Council granting the abatement, which includes provisions setting forth:

a. The tax abatement recipient's agreement to fulfill the conditions upon which the tax abatement is based ("conditions of abatement");

b. The time within which the tax abatement recipient must comply with the conditions of abatement;

c. The tax abatement recipient's obligation to respond to periodic surveys regarding compliance with the conditions of abatement;

d. The tax abatement recipient's obligation to allow representatives of the Community and Economic Development Department to have access to the project premises and to perform inspections and audits as necessary to verify compliance with the conditions of abatement.

e. The events which:

1. Shall entitle the Council to terminate the tax abatement in whole or in part; and

2. Shall cause the tax abatement recipient to be obligated to repay all or a portion of the property tax savings received.

(4) Neither the applicant nor any related party of the applicant is delinquent or in default with respect to any property tax payment in St. Joseph County, Indiana.

(5) Neither the applicant nor any related party of the applicant has a record of violations of local, state, or federal laws or regulations over a period of time that, in the opinion of the Council, tends to show a consistent pattern.

(6) The applicant must pay all company employees (full-time, part-time, and temporary) at least a Poverty Wage. The Poverty Wage is defined as the wage rate that provides a full-time worker an income at the government-defined poverty level. It is calculated as follows:

Step1: Determine the Poverty Annual Income Level for a household of size three, as listed in the annual Federal Poverty Guidelines. Data for these income levels are published at <http://aspe.hhs.gov/poverty/index.shtml>.

Step 2: Divide the Poverty Annual Income Level by 2,080 hours, the number of hours for full-time work in a year, to get the Poverty Wage. The Poverty Wage until March 1, 2011 is \$8.80 per hour. The Poverty Wage shall be recalculated annually on March 1st using the calculation described above.

(7) The applicant maintains a written Affirmative Action Plan. The Plan must indicate the positive steps being taken to encourage the hiring, promotion, and retention of qualified members of historically disadvantaged groups, such as minorities, women, and the disabled. The Plan must address the specific needs of each particular disadvantaged group. The requirement for an Affirmative Action Plan does not apply to entities with fewer than ten employees.

~~(8) The construction contractors for the applicant maintain a written Affirmative Action Plan. The Plan must conform to those required of federal contractors, as specified in Executive Order 11246 and the Federal Code of Regulations at http://www.dol.gov/dol/allcfr/ESA/Title_41/Part_60-4/41CFR60-4.3.htm.~~

(8) The construction contractors for the applicant must conform to the Affirmative Action requirements mandated for federal contractors, as specified in Executive Order 11246 and the Federal Code of Regulations at http://www.dol.gov/dol/allcfr/ESA/Title_41/Part_60-4/41CFR-4.3.htm. Contractors with fewer than 50 employees or with contracts of less than \$50,000 are not required to maintain a written Affirmative Action Plan. Also, this requirement does not apply to residential single family home construction and rehabilitation.

~~(9) All construction personnel must be employees of a licensed, bonded or registered contractor.~~ **All contractors and construction personnel on site at the applicant's project meet state and local requirements with respect to bonding, licensing, and registration requirements of the St. Joseph County/City of South Bend Building Department. Individuals working as independent contractors may be utilized only if they meet these criteria and**

also the requirements for independent contractors listed in IRS publication 1779, "Independent Contractor or Employee," <http://www.irs.gov/pub/irs-pdf/p1779.pdf>.

Sec. 2-76.4. Add-on abatement.

An Add-on Abatement ("Add-on Abatement") is available only for real property other than single-family residential construction and may be from one (1) to seven (7) years of abatement in addition to the Base Abatement. Hence, an applicant for real property tax abatement who is granted both a Base Abatement and an Add-on Abatement may receive in total from four (4) to ten (10) years of abatement.

The Council may, in its discretion and in light of its evaluation of the public benefits produced by the applicant's proposed project, grant an Add-on Abatement to any applicant for real property tax abatement who qualifies for a Base Abatement under the provisions of section 2-76.3 and whose proposed project is not single-family residential construction. The Community and Economic Development Department shall provide a summary of each applicant's public benefit point calculations which have been awarded as part of their written report which is further addressed in section 2-84.9 of this article. As a guide to its deliberations regarding an Add-on Abatement, the Council may consider, among other things: (i) the number of Public Benefit Points ("Public Benefit Points") awarded for the applicant's including in the Memorandum of Agreement commitments to execute one (1) or more of the Public Benefit Actions ("Public Benefit Actions") described in subsection (1) below; and (ii) the total number of Public Benefit Points awarded in relation to the threshold numbers of Public Benefit Points required to earn consideration for additional years of abatement set forth in subsection (2) below.

(1) *Public benefit actions and public benefit points.* The public benefit actions for which public benefit points may be awarded are as set forth below. The number of public benefit points that may be awarded is set forth in square brackets following the description of each public benefit action.

a. *Project related actions.* The applicant will:

1. Redevelop a site that has special needs by one of the following actions [~~forty-nine (49)~~ twenty-five (25) public benefit points]:

(i) *Convert an eligible building to residential.* Convert to residential use a commercial building that has been designated an eligible building ("eligible building") by the Community and Economic Development Department. The Council intends generally that an eligible building shall be a building identified as an important element in achieving the goals and objectives of a formally adopted plan (such as a neighborhood revitalization plan) or a building of such magnitude (as determined by its

context) that it is considered critical to the success of efforts to enhance, improve, revitalize or preserve the surrounding area.

(ii) *Rehabilitate an historic building.* Rehabilitate and reuse a building that is on the National Register of Historic Places, a locally designated historic landmark, located in a National Register or local landmark district, eligible for nomination as a National Register or local landmark, or rated as Outstanding (O/13) or Significant (S/12 or S/11) in the most recent Historic Preservation Commission county-wide survey.

(iii) *Rehabilitate a problem property.* Rehabilitate and reuse a property that that has been designated a problem property by the Community and Economic Development Department ("problem property"). The Council intends generally that a problem property shall be a building, facility, or complex that has been cited by the City's Neighborhood Code Enforcement agency, or a difficult-to-adapt building or facility that was constructed and used for a single, unique purpose (such as a school building), or a building of such magnitude (as determined by its context) that it is considered critical to the success of efforts to enhance, improve, revitalize or preserve the surrounding area.

(iv) *Clean up a brownfield.* Pay the cost of cleaning up a brownfield ("brownfield"), which is any site, building, facility, or complex that has been designated a brownfield by the Community and Economic Development Department.

2. ***Technology-based businesses.*** ~~Develop a business based on local university research.~~ Develop a commercial product or enterprise that is based upon **nanotechnology and/or** licensing intellectual property arising from research conducted at a public or private university, college, or community college within St. Joseph County. [~~thirty five (35)~~ fifty (50) **one hundred (100)** public benefit points]

3. ~~*Achieve a physical element of a plan.* Achieve one or more physical element identified in a development or revitalization plan (such as a neighborhood, commercial corridor, or redevelopment plan) that has been approved by the Council. The term physical element includes the construction, reconstruction or rehabilitation of a building, facility or complex; the construction, reconstruction or rehabilitation of public infrastructure, facilities or community amenities; the removal of blighting physical elements; and the conversion of obsolete sites, buildings, facilities or complexes into productive and positive physical aspects of the identified area. (thirty six (36) public benefit points]~~ *Meet energy-efficient building standards.* Meet energy-efficient building standards at the Silver level or higher, as prescribed by the US Green Building Council's current Leadership in Energy and Environmental Design (LEED) rating system and reference guide, published at www.usgbc.org. [~~fifty (50)~~ **one hundred (100)** public benefit points]

4. ~~Promote green technology.~~ **Green businesses.** Develop a business whose primary function is the manufacture, distribution or installation of renewable energy products and materials, including solar, wind and/or geothermal. [~~fifty (50)~~ **one hundred (100)** public benefit points]

5. *Use renewable resources.* Achieve ten (10) percent of electric usage via wind- or solar-powered generation on site. [twenty-five (25) public benefit points]

6. *Green roof.* Cover twenty (20) percent of roof area with plants. [twenty-five (25) public benefit points]

7. *Invest in targeted areas.* Locate a real property investment in the Economically Distressed Area. [~~one two hundred (100)~~ **(200)** public benefit points]

b. *"Super-size" project development actions.*

Produce new construction or rehabilitation that exceeds either the number of square feet or the amount of hard-dollar cost that is required to qualify under the applicable provisions of sections 2-77 through 2-83 by one hundred (100) percent or more. [~~Two hundred ten (210)~~ **One Two hundred (100) (200)** public benefit points awarded in cumulative increments based on the percentage by which the number of square feet or the amount of hard-dollar cost that is required to qualify, as follows:

TABLE INSET:

1. 100% to 199%	twenty-five (25) fifty (50) public benefit points
2. 200% to 299%	sixty-eight (68) twenty-five (25) fifty (50) additional public benefit points
3. 300% to 399%	sixty-five (65) twenty-five (25) fifty (50) additional public benefit points
4. 400% and over	fifty-two (52) twenty-five (25) fifty (50) additional public benefit points

c. *Construction related actions.* The applicant will:

1. *Employ local companies.* Employ local companies for at least seventy-five (75) percent of the cost of construction work associated with the project, except for the cost of any construction work that is not

reasonably available from a local company [~~twenty (20) twenty-five (25)~~ **fifty (50)** public benefit points].

~~2. *Purchase materials from local companies.* Purchase from local companies at least seventy five (75) percent of the materials used in construction associated with the project, except for the cost of any material that is not reasonably available from a local company [twenty (20) public benefit points].~~ ***Employ local construction workers.* Fifty (50%) percent or more of construction workers on abated project reside in St. Joseph County [~~twenty-five (25)~~ **fifty (50)** public benefit points].**

~~3. *Require employees instead of independent contractors.* Require the companies performing construction work associated with the project to hire one hundred (100) percent of the workers (except for any person who is operating as a business that has its own taxpayer identification number) on the project as employees instead of as independent contractors [nineteen (19) public benefit points].~~ ***Pay the common construction wage.* Construction contractors pay all construction employees one hundred percent (100%) of the total wage package of the most recent wage adopted by a Common Construction Wage Committee, as defined by IC 5-16-7, for St. Joseph County Building Projects. This Common Construction Wage setting can be found at www.in.gov/dol/2596.htm.** ***Pay the phase-in prevailing wage.* Pay the appropriate existing rate structures for the area's building trades as documented in the area's current applicable construction labor agreement. Current applicable agreements may be secured through the office of the Michiana Area Construction Industry Advancement Fund (MACIAF) located at 3215A Sugar Maple Court, South Bend, Indiana 46628 [~~two four hundred (2400)~~ public benefit points].**

4. *Employ minority and women contractors.* At least 3% of all construction subcontractors and suppliers on the abated project are Women Business Enterprises (WBE) and at least 15% are Minority Business Enterprises (MBE). All listed MBE/WBEs must be certified by the State of Indiana Minority and Women's Business Enterprise Division or meet all the criteria required for certification and have a registration number from the state [fifty (50) public benefit points].

5. *Employ minority and women construction employees.* At least 3% of all construction employees on the abated project are women and at least 15% are minorities [fifty (50) public benefit points].

~~4. *Require target wage levels.* Require the companies performing construction work associated with the project to pay workers on the~~

~~project a scale of wages that is at least one hundred (100) percent of the most current wage rates for each classification of laborers and mechanics which the Administrator of the Wage and Hour Division of the U.S. Department of Labor has determined to be prevailing in St. Joseph County, Indiana and has published on the Davis-Bacon Determinations web site at <http://www.access.gpo.gov/davisbacon/> [twenty two (22) public benefit points].~~

~~5. *Require health benefits.* Require the companies performing construction work associated with the project to contribute on behalf of the employees on the project to a fund, plan, or insurance program for medical and hospital care [twenty two (22) public benefit points].~~

~~6. *Require pension benefits.* Require the companies performing construction work associated with the project to contribute on behalf of the employees on the project to a fund, plan, or program for, pensions on retirement [eighteen (18) public benefit points].~~

~~7. *Require racial diversity.* Require the entities contracted by the petitioner to perform construction work associated with the project to maintain or establish an affirmative action plan or other similar plan with specific goals, objectives, and means (i.e., in-house training and recruitment) with respect to achieving a level hiring field to achieve racial, cultural, and gender diversity among workers [twenty (20) public benefit points].~~

d. *Wages and benefits related actions.* The applicant will:

~~1. *Pay target wage levels.* Pay its employees in each applicable Standard Occupational Classification ("SOC") system category an average wage (calculated by summing the wages of all the employees in a given SOC category and then dividing the total wages by the number of such employees) that is at least one hundred (100) percent of the mean hourly wage reported for the SOC category by the Bureau of Labor Statistics in its most recent Metropolitan Area Occupational Employment and Wage Estimates for the South Bend, Indiana Metropolitan Statistical Area. [thirty three (33) public benefit points] For the purpose of this provision, Pay self-sufficiency wage levels. Pay to all company employees Self-Sufficiency Wages. A Self-Sufficiency Wage is defined as the wage rate that provides a full-time worker an income sufficient to meet basic needs without subsidies of any kind. It is calculated as follows:~~

~~Step 1: Determine the Self-Sufficiency Annual Income Level. Average the self-sufficiency annual income levels for all households of size three~~

calculated by the Indiana Coalition for Housing and Homeless Issues for St. Joseph County at:

<http://www.region4workforceboard.org/calculator/selfsuffcalc.cfm>

Step 2: Divide the Self-Sufficiency Annual Income Level by 2,080 hours, the number of hours for full-time work in a year, to get the Self-Sufficiency Wage.

The Self-Sufficiency Wage until March 1, 2011 is \$12.90 per hour. The Self-Sufficiency Wage shall be recalculated annually on March 1st using the calculation described above.

For the purposes of this ~~provision~~ subparagraph, and subparagraph 2 below, "Wage" means straight-time, gross pay, exclusive of premium pay, and subject to the following specific inclusions and exclusions.

(i) Included are: base rate; cost-of-living allowances; guaranteed pay; hazardous-duty pay; incentive pay including commissions and production bonuses; on-call pay; and tips.

(ii) Excluded are: back pay; jury duty pay; overtime pay; severance pay; shift differentials; nonproduction bonuses; and tuition reimbursements.

~~one two hundred (1200)~~ **public benefit points** awarded in cumulative increments based on the extent to which all company employees are paid a wage above the poverty wage, as follows:

<u>1. 10% to 33% of the difference between the poverty and self-sufficiency wage</u>	<u>twenty five (25) fifty (50) public benefit points</u>
<u>2. 34% to 66% of the difference between the poverty and self-sufficiency wage</u>	<u>twenty five (25) fifty (50) additional public benefit points</u>
<u>3. 67% to 99% of the difference between the poverty and self-sufficiency wage</u>	<u>twenty five (25) fifty (50) additional public benefit points</u>
<u>4. Self-sufficiency wage or higher</u>	<u>twenty five (25) fifty (50) additional public benefit points</u>

~~2. Provide health benefits. Contribute on behalf of its employees to a fund, plan, or program for medical and hospital care [thirty four (34) public benefit points]. Pay above-average wages. Pay average wages (total wage bill divided by number of employees) greater than the mean hourly wage rate for all occupations for the South Bend-Mishawaka Metropolitan Statistical Area. Published at http://www.bls.gov/oes/current/oes_43780.htm#b00-0000 [fifty (50) public benefit points].~~

The mean hourly wage rate for all occupations for the South Bend-Mishawaka Metropolitan Statistical Area until March 1, 2011 is \$18.07 per hour. The mean hourly wage rate shall be determined annually on March 1st by referencing the source listed above.

~~3. *Provide pension benefits.* Contribute on behalf of its employees to a fund, plan, or program for pensions on retirement or death [twenty nine (29) public benefit points]. *Provide health benefits.* Make a contribution to a standard health plan for regular full- and part-time employees equal to at least eighty-five (85%) percent of the **total** premium costs of the plan. The plan includes coverage for at least eighty (80%) percent of medical services paid by the plan, with no more than \$3,000 out-of-pocket costs for a family, as well as prescription drugs and mental health services with affordable co-pays. [~~fifty (50)~~ **seventy-five (75)** public benefit points].~~

~~4. *Provide training.* Provide training to employees which consists of recognized or certified training or educational courses or programs conducted within or outside the place of employment [twenty eight (28) public benefit points]. *Provide pension benefits.* Make a contribution to a retirement plan, available to all regular full- and part-time employees, of fifty (50%) percent of employee contributions, up to five (5%) percent of total wages. [~~fifty (50)~~ **seventy-five (75)** public benefit points].~~

~~5. *Provide day care.* Provide or contribute to the cost of child day care for its employees [fifteen (15) public benefit points]. *Provide training.* Provide training to employees, which consists of certified training or educational courses equal to at least \$500 per employee. [~~fifty (50)~~ **seventy-five (75)** public benefit points].~~

~~6. *Provide transportation assistance.* Provide either direct or indirect support and assistance to enable lower income employees without private transportation to get back and forth from place of residence to place of employment. Examples of direct or indirect assistance include using public transportation, subsidized public transportation, and special van services [fourteen (14) public benefit points]. *Provide day care.* Provide an on-site child care center and/or a flexible spending account providing for before-tax payments of dependent care expenses, with an annual limit of \$5,000 per employee. [~~fifty (50)~~ **seventy-five (75)** public benefit points].~~

~~7. *Provide employer assisted housing program.* Provide an employer-assisted home ownership program [nine (9) public benefit points]. *Provide transportation assistance.* Provide Transportation Assistance to lower income employees such as using public transportation, subsidized public transportation or special van services equal to at least \$150 per employee. [~~fifty (50)~~ **fifty (50)** public benefit points].~~

8. Provide employer-assisted housing program. Provide an employer-assisted home ownership program equal to at least \$150 per employee. [~~twenty-five (25)~~ **public benefit points**].

(4) e. Workforce related actions. The applicant will:

a. 1 Create new jobs. Create at least a specified number of new jobs [~~forty two (42)~~ **public benefit points**]. [~~one two hundred (±200)~~ **public benefit points awarded in cumulative increments based on the number of new jobs created, as follows:**]

1. 1 to 25 jobs	twenty five (25) fifty (50) public benefit points
2. 26 to 50 jobs	twenty five (25) fifty (50) additional public benefit points
3. 51 to 75 jobs	twenty five (25) fifty (50) additional public benefit points
4. More than 75 jobs	twenty five (25) fifty (50) additional public benefit points

b. 2. Retain existing jobs. Retain at least a specified number the present level of existing jobs [~~forty one (41)~~ **twenty-five (25)** public benefit points].

~~c. Achieve racial diversity. Maintain or establish an affirmative action plan or other similar plan with specific goals, objectives, and means (i.e., in house training and recruitment) with respect to achieving racial, cultural and gender diversity among the workers employed [thirty five (35) public benefit points].~~

~~d. Provide targeted hiring preferences. Provide hiring preference for residents of Census Tracts designated by the Community and Economic Development Department that have the highest unemployment or the highest percentage of low and moderate income individuals [thirty four (34) public benefit points].~~

~~(5) Pay for municipal infrastructure. Pay the cost of extension or oversizing of municipal infrastructure (including water, sewer, drainage facilities, wastewater treatment facilities, road and street improvements, street lighting, traffic control and related public improvements) serving the project site. [One hundred thirty one (131) public benefit points awarded in cumulative increments based on the costs paid, as follows:~~

TABLE INSET:

a. Pay for oversizing	fourteen (14) public benefit points
b. Pay for 26%–50% of extension	twenty six (26) additional public benefit points
c. Pay for 51%–	thirty nine (39) additional public benefit points

75% of extension—	
d. Pay for 76%— 100% of extension—	fifty two (52) additional public benefit points—

~~g. *Financially support a municipal facility.* Provide significant financial sponsorship for a municipally owned park, recreation, cultural arts, or entertainment facility, or other similar public amenity [eighty four (84) public benefit points].~~

3. *Employ residents of Census Tracts in Economically Distressed Areas.* Employ residents of Census Tracts in Economically Distressed Areas, as a percentage of total company employees. [~~one two hundred (1200)~~ public benefit points awarded in cumulative increments based on the number of Economically Distressed Area residents employed as a percentage of total company employees, as follows:]

1. 1% to 10% of employees	twenty five (25) fifty (50) public benefit points
2. 11% to 20% of employees	twenty five (25) fifty (50) additional public benefit points
3. 21% to 30% of employees	twenty five (25) fifty (50) additional public benefit points
4. More than 30% of employees	twenty five (25) fifty (50) additional public benefit points

4. Hire 5 or more individuals who have a felony conviction in their background. [fifty (50) public benefit points]

5. Hire 5 or more individuals whose jobs were lost (within the last 12 months prior to hire date) due to the closing of a local (St. Joseph County) business. [fifty (50) public benefit points]

(2) *Public benefit points thresholds and additional abatement years, except multi-family development.* Except with respect to multi-family development projects, the threshold number of public benefit points required to earn consideration by the Council of each additional year of abatement shall be as set forth below:

- a. Zero (0) through ~~three seven~~ **hundred ninety-nine (300 3799)** public benefit points earns consideration of zero (0) additional years of abatement;
- b. ~~Three Four~~ **Eight** hundred ~~one (301 4800)~~ through ~~three four~~ **nine** hundred ~~fifty seven~~ **ninety-nine (357 4999)** public benefit points earns consideration of one (1) additional year of abatement;
- c. ~~Three Five hundred~~ **fifty eight** **One thousand** (358 **51,000**) through ~~four~~ **five** **eleven** hundred ~~fourteen~~ **ninety-nine (414 51,199)** public benefit points earns consideration of two (2) additional years of abatement;

- d. Four ~~Six~~ **Twelve** hundred fifteen (415 ~~61,200~~) through four ~~six~~ **thirteen** hundred ~~seventy-one~~ ninety-nine (471 ~~61,399~~) public benefit points earns consideration of three (3) additional years of abatement;
- e. Four ~~Seven~~ **Fourteen** hundred ~~seventy-two~~ (472 ~~71,400~~) through five ~~seven~~ **fifteen** hundred ~~twenty-eight~~ ninety-nine (528 ~~71,599~~) public benefit points earns consideration of four (4) additional years of abatement;
- f. Five ~~Eight~~ **Sixteen** hundred ~~twenty-nine~~ (529 ~~81,600~~) through five ~~eight~~ **seventeen** hundred ~~eighty-five~~ ninety-nine (585 ~~81,799~~) public benefit points earns consideration of five (5) additional years of abatement;
- g. Five ~~Nine~~ **Eighteen** hundred ~~eighty-six~~ (586 ~~91,800~~) through six ~~nineteen~~ hundred ~~forty-two~~ ninety-nine (642 ~~1,999~~) public benefit points earns consideration of six (6) additional years of abatement;
- h. ~~Six hundred forty-three~~ **One Two** thousand (643 ~~12,000~~) ~~to one thousand~~ (1,000) or more public benefit points earns consideration of seven (7) additional years of abatement.

<u>From</u>	<u>To</u>	<u>Additional Years</u>
<u>0</u>	399 <u>799</u>	<u>0</u>
400 <u>800</u>	499 <u>999</u>	<u>1</u>
500 <u>1,000</u>	599 <u>1,199</u>	<u>2</u>
600 <u>1,200</u>	699 <u>1,399</u>	<u>3</u>
700 <u>1,400</u>	799 <u>1,599</u>	<u>4</u>
800 <u>1,600</u>	899 <u>1,799</u>	<u>5</u>
900 <u>1,800</u>	999 <u>1,999</u>	<u>6</u>
1,000 <u>2,000</u>	<u>& over</u>	<u>7</u>

(3) The following table indicates what abatements (phase-ins) of various years mean for the amount of deduction that is allowed from the assessed value of the property.

Deduction Allowed from Assessed Value of Property

Year of Abatement (Phase-In)	10	0	0	0	0	0	0	0	5
	9	0	0	0	0	0	0	11	10
	8	0	0	0	0	0	13	22	20
	7	0	0	0	0	14	25	33	30
	6	0	0	0	17	29	38	44	40
	5	0	0	20	34	43	50	55	50
	4	0	25	40	50	57	63	66	55
	3	33	50	60	66	71	75	77	80
	2	66	75	80	85	85	88	88	95
	1	100	100	100	100	100	100	100	100
		3	4	5	6	7	8	9	10
		Length of Abatement (Phase-In)							

(34) *Public benefit points thresholds and additional abatement years, multi-family development.* With respect to multi-family development projects, the threshold number of public benefit points required to earn consideration by the Council of each additional year of abatement shall be as set forth below:

- a. Zero (0) through one hundred forty-one (141) public benefit points earns consideration of zero (0) additional years of abatement;
- b. One hundred forty-two (142) through one hundred eighty-three (183) public benefit points earns consideration of one (1) additional year of abatement;

- c. One hundred eighty-four (184) through two hundred twenty-five (225) public benefit points earns consideration of two (2) additional years of abatement;
- d. Two hundred twenty-six (226) through two hundred sixty-seven (267) public benefit points earns consideration of three (3) additional years of abatement;
- e. Two hundred sixty-eight (268) through three hundred nine (309) public benefit points earns consideration of four (4) additional years of abatement;
- f. Three hundred ten (310) through three hundred fifty-one (351) public benefit points earns consideration of five (5) additional years of abatement;
- g. Three hundred fifty-two (352) through three hundred ninety-three (393) public benefit points earns consideration of six (6) additional years of abatement;
- h. Three hundred ninety-four (394) ~~to one thousand (1,000)~~ or more public benefit points earns consideration of seven (7) additional years of abatement.

Sec. 2-77.1. Single-family residential construction.

(a) *Generally.* The Council believes that the following general standards have a reasonable relationship to the development objectives of single-family residential construction within the City, and would warrant tax abatement consideration as set forth herein.

(b) *Base abatement general standards.*

(1) Proposed single-family new construction homes which are to be located within the City's corporate boundaries and meet the requirements addressing residentially distressed areas set forth in IC, 6-1.1-12.1-2 and the provisions of subsection (d) below, may be considered for a base abatement consisting of five (5) years real property tax abatement.

(2) *Rehabilitation.* Proposed single-family residential developments which incorporate rehabilitation of not less than ten thousand dollars (\$10,000.00) in hard-dollar costs, which are to be located in the Economically Distressed Area, may be considered for a base abatement consisting of five (5) years real property tax abatement. This abatement will be considered only if the property in question does not qualify for either of the 5-year abatements specified in Indiana Code 6-1.1-12-18 or 6-1.1-12-22.

(c) *No add-on abatement.* No add-on abatement will be granted for single-family residential construction.

(d) *Residentially distressed area designation.* The grant of a residentially distressed area designation is subject to the following conditions:

- (1) The deduction will not be allowed unless the dwelling is constructed to meet the local code standards for habitability.
- (2) If a designation application is filed, the Council may require that the construction be completed within a reasonable period.

Sec. 2-84.2. Tangible personal property tax abatement.

(a) *Generally.* The Council believes that the following general standards have a reasonable relationship to the development objectives of promoting the installation of New Personal Property in urban development areas within the City's corporate boundaries, and would warrant tax abatement consideration as set forth herein.

(b) *Base abatement general standards.*

- (1) An applicant seeking personal property tax abatement must comply with all of the provisions of IC 6-1.1-12.1-4.5, and the provisions of division 11 that are applicable.
- (2) An applicant complying with such provisions may be considered for a base abatement consisting of five (5) years personal property tax abatement. In the case of exceptional developments that create significant employment and tax revenues, such as I/N Tek, I/N Kote and the AM General H2 project, the Council may consider a personal property tax abatement of up to ten (10) years.

(c) *Certification of New Manufacturing Equipment, New Research and Development Equipment, New Logistical Distribution Equipment and New Information Technology Equipment.* An applicant seeking personal property tax abatement must certify that it will use the New Manufacturing Equipment, New Research and Development Equipment, New Logistical Distribution Equipment and New Information Technology Equipment in one (1) or more of the uses listed within the definition of New Manufacturing Equipment, New Research and Development Equipment, New Logistical Distribution Equipment and New Information Technology Equipment set forth in IC 6-1.1-12.1 et seq.

(d) *No add-on abatement.* No add-on abatement will be granted for personal property

Sec. 2-84.7. Designation application required.

(a) *Owners must file.* Owners of real property or new manufacturing equipment located within the City may petition the Council on forms provided by the City Clerk for real or personal property tax abatement consideration. All information and attachments required by the

designation application must be completed and filed with the City Clerk together with a filing fee set forth below to cover the review, processing and administrative costs of the Community and Economic Development Department and City Clerk. However, the filing fee charged for filing a designation application for a parcel that contains one (1) or more owner-occupied, single-family dwellings may not exceed the cost of publishing the required notice.

(b) *Schedule of fees.* The application/review and Clerk's Office fees set forth below must be paid by the applicant to the City Clerk simultaneous with the filing of application or petition for real or personal property tax abatement consideration. The annual administration fees set forth below must be paid by the applicant upon receipt of a billing from the Community and Economic Development Department after the Council has adopted the pertinent declaratory resolution.

(1) Outside a TIAA:

a. Real property:

1. Application/review . . . \$323.00
2. Clerk's Office . . . 250.00
3. Annual administration, fee per year of abatement . . . 117.00

b. Personal property:

1. Application/review . . . \$323.00
2. Clerk's Office . . . 250.00
3. Annual administration, fee per year of abatement . . . 117.00

c. Combined:

1. Real property:

- (i) Application/review . . . \$323.00
- (ii) Clerk's Office . . . 250.00
- (iii) Annual administration, fee per year of abatement . . . 117.00

2. Personal property:

- (i) Application/review . . . \$161.50
- (ii) Clerk's Office . . . 250.00
- (iii) Annual administration . . . 292.50

(2) Inside a TIAA:

a. Real property:

1. Application/review . . . \$393.00
2. Clerk's Office . . . 250.00
3. Annual administration, fee per year of abatement . . . 117.00

b. Personal property:

1. Application/review . . . \$393.00
2. Clerk's Office . . . 250.00
3. Annual administration, fee per year of abatement . . . 117.00

c. Combined:

1. Real property:

- (i) Application/review . . . \$393.00
- (ii) Clerk's Office . . . 250.00

- (iii) Annual administration, fee per year of abatement . . . 117.00
- 2. Personal property:
 - (i) Application/review . . . \$196.50
 - (ii) Clerk's Office . . . 250.00
 - (iii) Annual administration . . . 292.50

The application/review and City Clerk's components of each of the above fees are nonrefundable. The annual administration component of each of the above fees may be refunded in the event the application or petition for tax abatement consideration is not approved by the Council or is withdrawn by the owner prior to final action by the Council. Should a tax abatement be rescinded, the annual administration fee for that abatement may be refunded subject to any refund being prorated and reduced by any costs incurred by the City in taking such action. Fees collected under this section shall be deposited as follows:

Office of the City Clerk, fee of two hundred fifty dollars (\$250.00) to the General Fund; and All other fees to Fund 212 to be used by the Community and Economic Development Department.

(c) *Petition information.* Property owners petitioning for tax abatement shall provide the following information on the petition to enable the Council to consider their request:

- (1) The name(s) and address(es) of the real property owner(s) (and personal property owner(s), in the case of the request for personal property tax abatement), and any other person(s) leasing, intending to lease, or having an option to purchase such property, and a brief description of the business.
- (2) If the business organization is publicly held, the name of the corporate parent and the name under which the corporation is filed with the Securities Exchange Commission.
- (3) The legal description and commonly known address of the real property for which real property tax abatement is being petitioned; or the legal description and commonly known address of the facility at which the New Personal Property for which tangible personal property tax abatement is being petitioned will be located.
- (4) A map and/or plat describing the area where tax abatement is being requested.
- (5) The current assessed valuation of the real property improvement before Rehabilitation, Redevelopment, economic revitalization, or improvement; or the current valuation of the tangible personal property to be replaced by New Personal Property.
- (6) Photographs of the location taken within two (2) weeks of the filing of the petition.
- (7) The real and personal property taxes paid at the location during the previous five (5) years, whether paid by the current owner or a previous owner.

- (8) The commitment made within the past five (5) years to hiring minority persons including number of minority persons employed during each of the past five (5) years, specifying whether full-time or part-time and whether permanent or temporary employees. The petitioner shall also list the current number of total employees (full- and part-time) and the current number of minority persons (full- and part-time).
- (9) An estimate of the after-rehabilitation market value of the real property or an estimate of the market value of the New Personal Property after installation.
- (10) The commitment to minority employment during the first five (5) years of tax abatement.
- (11) A description of the proposed project (whether Rehabilitation, new construction, or installation of New Personal Property), including information about physical improvements to be made or the New Personal Property to be installed, an estimate of the cost of the project, the amount of land to be used, the proposed use of the improvements, and a general statement as to the value of the project to the business.
- (12) An estimate of the number of new permanent jobs to be created by the project within two (2) years, a statement of the current number of permanent and part-time jobs at the location and the impact on those current jobs to be caused by the project, and the projected annual salaries for each such position to be created.
- (13) Certification that no building permit has been issued for construction on the property for the improvement proposed or verification that the New Personal Property has not been installed.
- (14) The North American Industry Classification System (NAICS) major group within which the proposed project would be classified, by number and description.
- (15) The Internal Revenue Service Code of principal business activity by which the proposed project would be classified, by number and description.
- (16) A description of on-site child care or day care facilities, services, or benefits currently offered or proposed to be offered by the petitioner for children of employees.
- (17) Other anticipated public financing for the project, including, if any, industrial revenue bonding to be sought or already authorized, assistance through the United States Department of Housing and Urban Development funds from the City of South Bend, Small Business Administration Section 504, financing through the Business Development Corporation of South Bend, Mishawaka, and St. Joseph County, Indiana; financing through the Industrial Development Revolving Fund; ~~financing through the Corporation for Entrepreneurial Development~~; or other public financial assistance, including public works improvements.

(18) For real property tax abatement, a description of how the property in question has become undesirable for or impossible of normal development and occupancy because of lack of development, cessation of growth, deterioration of improvements, or character of occupancy, age, obsolescence, substandard buildings or other factors which have impaired values and prevent a normal development of the property or property use.

(19) For personal property tax abatement, a description of why the facility or group of facilities to be replaced are technologically, economically or energy obsolete, whereby the obsolescence may lead to a decline in employment and tax revenues; together with a verification that the New Personal Property will be used ~~and that the New~~ in one (1) or more of the uses listed within the definitions of New Manufacturing Equipment, New Research and Development Equipment, New Logistical Distribution Equipment and New Information and Technology Equipment, all as set forth in IC 6-1.1-12.1 et seq., was never before used by its owner for any purpose in Indiana.

(20) The name, address, telephone number, facsimile number, email address, and web address of the person to contact regarding notice of Council meetings and public hearings concerning the petition.

(21) The name, address, telephone number, facsimile number, and email address of the person who will work with WDS for employee recruitment.

(22) Certified payrolls to document the payment of employee wage rates at the site identified in the tax abatement petition where the abatement will be utilized. (Identifying individual information should be withheld.)

(23) Certified payrolls to document the payment of wage rates, residency, and employment status of construction workers employed on the abated project. (Identifying individual information should be withheld.)

(24) A written Affirmative Action Plan for company employees, which indicates the positive steps being taken to encourage the hiring, promotion, and retention of qualified members of historically disadvantaged groups, such as people of color, women, and the disabled.

(25) Written documentation from construction contractors to indicate compliance with the Affirmative Action requirements of Executive Order 11246. Contractors with fewer than 50 employees or with contracts of less than \$50,000 are not required to maintain a written Affirmative Action Plan. This requirement does not apply to residential single family home construction and rehabilitation.

(26) Written documentation to support all claims for public benefit points made in connection with their abatement.

(d) *Power of attorney.* If a person other than the person signing the application is to represent the applicant at any meeting of the Community and Economic Development Committee or the Council, a duly executed power of attorney authorizing such representation must be on file with the City Clerk.

Sec. 2-84.9. Advisory review by Community and Economic Development Department.

(a) Upon the filing of a completed tax abatement petition, including all attachments, filing fee, statement of benefits form, and the declaratory and confirmatory resolutions by the owner, the City Clerk shall refer the documents to the Community and Economic Development Department for an advisory review. The review shall be for informational purposes only, and shall not be binding on the designating body.

(b) The Community and Economic Development Department shall review the petition, statement of benefits, and all attachments thereto. It shall also have the authority to request additional information from the petitioner which are relevant to the petition and statement of benefits.

(c) Within fifteen (15) days from the receipt of the documents from the Office of the City Clerk, the Community and Economic Development Department shall prepare a written report setting forth a review of its advisory findings. The report shall be sent to the Council's Community and Economic Development Committee, to the City Clerk, and to the petitioner.

(d) The report shall address but not be limited to addressing the following:

(1) Whether all required information has been submitted by the petitioner. In the event that additional information was requested of the petitioner, the report shall address such requests and the response received from the petitioner.

(2) Whether the information contained in the petition and statement of benefits indicates that the requirements of this article are met by the project as described in the petition.

(3) Whether zoning requirements have been met, according to the Building Department. A copy of the Building Department's ~~of Code Enforcement's~~ report shall be attached to the report.

(4) Whether the project is located in a tax allocation area, as defined in IC 36-7-14-39 and, if so, whether the South Bend Redevelopment Commission has adopted a resolution approving that application. A copy of such a resolution if required shall be attached to the report.

(5) The proposed memorandum of agreement shall be attached to the report.

(6) Whether in the Community and Economic Development Department's opinion, a deduction should be allowed based on the following:

- a. Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.
- b. Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- c. Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- d. Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- (e) The Community and Economic Development Department's report shall also have attached to it a copy of the petition and statement of benefits form and all attachments thereto.

Sec. 2-84.10. Review and recommendation by Council's Community And Economic Development Committee.

(a) The Council's Community and Economic Development Committee shall examine, review and conduct a public committee meeting concerning the petition and statement of benefits, and declaratory resolution. Such meeting shall not be scheduled until the advisory report from the Community and Economic Development ~~Development~~ Department has been received by the City Clerk, the Council's Community and Economic Development Committee, and the petitioner.

(b) The petitioner and/or its representatives shall be required to attend all such committee meetings where such information is to be reviewed. The petitioner shall present verbal and written evidence as to why it believes it should be granted the tax abatement sought.

(c) At the Committee meeting, the Committee shall specifically consider, among other information provided by the petition, the commitment made to minority employment by the petitioner during the past five (5) years and during the first five (5) years of tax abatement.

(d) Following questioning and review, the Committee shall take action on the request and shall submit its recommendation to the Council as to whether the property qualifies as an Economic Revitalization Area under the terms of this article and IC 6-1.1-12.1-1et seq.

Sec. 2-84.12. Confirmatory resolution.

(a) Following the legal publication and on the date published in the legal notice, a public hearing on the confirmatory resolution shall be held by the Council. The petitioner and/or its

representative shall be present and shall be required to present evidence why it believes the tax abatement requested should be granted, at which time the Council shall receive and hear all remonstrances and objections from interested persons pertaining to the petition. At the public hearing, the Council shall determine whether the petition complies with this article and with IC 6-1.1-12.1, *et seq.*, and shall consider all pertinent requirements for Economic Revitalization Areas prior to taking final action determining whether the petition meets qualifications for an Economic Revitalization Area and confirming, modifying and confirming, or rescinding the declaratory resolution. The determination of Council is final except that an appeal may be taken and heard as provided by IC 6-1.1-12.1-2.5(d) and (e).

(b) The Council must make a determination as to whether the deductions shall be allowed and made specific findings pursuant to IC 6-1.1-12.1-3 when considering real property tax abatement requests to be located in economic revitalization areas. The Council must further comply with IC 6-1.1-12.1-4.5 and make specific finding thereto when considering personal property tax abatement requests. In the case of real property tax abatement requests to be located in residentially distressed areas the Council must make a determination as to whether deductions shall be allowed and make specific findings pursuant to IC ~~6-1.1-12.1-2~~ and IC 6-1.1-12.1-3.

(c) In declaring an area an Economic Revitalization Area, the designating body may:

(1) Limit the time period to a certain number of calendar years during which the area shall be so designated;

(2) Limit the type of deductions that will be allowed within the Economic Revitalization Area to either the deduction allowed under IC 6-1.1-12.1-3, IC 6-1.1-12.1-4.1, IC 6-1.1-12.1-4.5 or the deduction allowed under IC 6-1.1-12.1-4.5~~8~~;

(3) Limit the dollar amount of the deduction that will be allowed with respect to New Personal Property if a deduction had not been filed before July 1, 1987, for that equipment;

(4) Limit the dollar amount of the deduction that will be allowed with respect to redevelopment and rehabilitation occurring in areas that are designated as Economic Revitalization Areas on or after September 1, 1988; or

(5) Impose reasonable conditions related to the purpose of state law or to the general standards adopted herein for allowing the deduction for the Redevelopment or Rehabilitation of the property or the installation of the New Personal Property.

(d) To exercise one (1) or more of the above-described powers, the Council must include this fact in the resolutions adopted.

(e) Prior to the Common Council taking final action on a Confirmatory Resolution which involved Public Benefit Points being awarded for construction jobs, a list of contractors which are intended to be used must be filed by the Petitioner with the Department of Community

and Economic Development for verification purposes by the Department. The Department shall confirm in writing to the Office of the City Clerk receipt of such information which will trigger the Confirmatory Resolution being placed on a Common Council agenda.

Sec. 2-84.13. Annual review of petitions by Council.

(a) All property owners who receive approval of their real and/or personal property tax abatement requests as a result of the Council's action under this article, shall be required to appear before the Council's Community and Economic Development Committee. Such appearances shall take place at a committee meeting following the petitioner's filing of the first Certified declaration application with the County Auditor, required by the State Board of Tax Commissioners pursuant to IC 6-1.1-12.1-5.

(b) Additionally the petitioner shall file with the Committee its annual report on forms previously sent to it by the Community and Economic Development Department. Such mailing by the Community and Economic Development Department shall be done annually to each such petitioner on or before February 1, ~~by certified mail~~, and shall provide notice that if the property owner fails to comply, that it may be subject to fines as set forth in this article. Petitioners must return their completed annual report within thirty (30) days from receipt. ~~with such date being calculated from the returned receipt mail card date.~~

(c) The annual report shall include, but not be limited to, the following information.

(1) The name and address of the person(s) filing the report.

(2) The amount of real and/or personal property taxes paid for the property during the year before the property was declared as an Economic Revitalization Area and during the most recent tax year.

(3) The current number of part-time and full-time jobs, specifying whether permanent or temporary, and the number of such jobs as of the end of the year immediately prior to receiving tax abatement.

(4) The names of Local Company and/or Minority contractors used during the renovation of the real property and/or installation of New Personal Property for which tax abatement was received.

(5) The number of minority persons hired for full-time and part-time jobs, specifying whether such jobs are permanent or temporary, since the completion of the project for which tax abatement was given.

(6) Updated certified payrolls to document the payment of employee wage rates at the site identified in the tax abatement petition where the abatement will be utilized. (Identifying individual information should be withheld.)

(7) Updated certified payrolls to document the payment of wage rates, residency, and employment status of construction workers employed on the abated project, if the construction project is still ongoing.

(8) Written documentation to demonstrate that the petitioner is still in compliance with the commitments made to receive public benefit points. Levels of the Poverty Wage, Self-Sufficiency Wage, Common Construction Wage, and mean hourly wage in effect at the time of the annual review shall be used to determine compliance.

(d) In addition to the Council's Community and Economic Development Committee being present at said committee meeting to review the petitioner's progress, Workforce Development Services, and members of the Community and Economic Development Department shall be in attendance to question the petitioner.

(e) The Council's Community and Economic Development Committee shall review the material presented by the petitioner in comparison to the information published by the County Auditor as required by IC 6-1.1-12.1-8.

(f) The Council's Community and Economic Development Committee shall specifically advise each property owner in writing as to whether subsequent appearances before the Committee shall be necessary. If such additional appearances are not required, the property owner shall be duly advised that its future annual reports may be mailed. Failure to mail such completed reports shall result in a fine of two thousand five hundred dollars (\$2,500.00) for each such failure to comply.

(g) To allow for changing conditions and to provide flexibility, the applicant may, in conjunction with its annual report, indicate its intention to drop specific benefits identified at the time of application. It may do so without penalty if it substitutes other benefits of at least equivalent point value, if it provides written documentation for the new benefits, and if the Council approves the substitution.

Section II. Section 2-84.14 is amended only at subparts (a) **and (d)** and the remainder of Section 2-84-14 is unchanged by this Ordinance. Subparts (a) **and (d)** shall now read as follows:

Sec. 2-84.14. Failure of petitioner to comply may result in fines being imposed or termination of economic revitalization designation and repayment of taxes previously abated.*

***Note:** IC 6-101-12.1-5-9, Version b provides in part that if the Common Council "determines that the property owner has not substantially complied with the statement of benefits and that the failure to substantially comply was not caused by factors beyond the control of the property owner" (such as declines in demand for the property owner's products or services) the Council shall hold a hearing after proper notice has been given, with the Council determining whether the

property owner 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 property owner".

(a) The Council believes that the granting of a request for real and/or personal property tax abatement under the terms and conditions of this article and the memorandum of agreement constitutes a contractual arrangement between the Council and the property owner granted the abatement.

(d) A petitioner who complies with section 2-84.13, but fails to provide **satisfactory** evidence as to why it has not fulfilled the obligations set forth in the memorandum of agreement and the petitioner's related documents used by the Council when granting the abatement, ~~may~~ **shall** be required to pay ~~part or all of~~ the tax abated to-date **attributed to the unfulfilled obligations** and may be fined in the minimum amount of two hundred fifty dollars (\$250.00) to a maximum amount of two thousand five hundred dollars (\$2,500.00) for each such failure to perform.

Section III. Chapter 2, Article 6, 2-84.16 is hereby amended to read as follows:

Sec. 2-84.16. Review of tax abatement procedures by Council.

(a) In calendar years ending with an even number, the Council shall review its tax abatement procedures set forth in this article. **Annually the Council shall review benefit categories in this article in order to determine if there are pressing needs of the community that should be addressed.**

(b) The review shall be conducted by the Council's Community and Economic Development Committee with a report of its findings being presented to the full Council on or before October 1 of such years.

(c) Nothing in this section prohibits a more frequent review of such procedures.

Section III.IV This Ordinance shall be in full force and effect from and after its adoption by the Common Council, approval by the Mayor, and any publication required by law.

Member, South Bend Common Council

Attest:

City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the _____ day
of _____, 2____, at _____ o'clock _____. m.

City Clerk

Approved and signed by me on the _____ day of _____, 2____, at
o'clock _____. m.

Mayor, City of South Bend, Indiana