Passed 8-1 (Spencer)

ORDINANCE 13-23

TO ESTABLISH PROCEDURE AND CRITERIA FOR CONSIDERATION OF ENTERPRISE ZONE INVESTMENT DEDUCTIONS (EZIDs) FOR PROPERTY LOCATED WITHIN A TAX ALLOCATION AREA PURSUANT TO IC 6-1.1-45-9

WHEREAS, in 1991, the Bloomington Urban Enterprise Zone ("Zone") and its administrative entity, the Bloomington Urban Enterprise Association ("BUEA") were created pursuant to IC 4-4-6.1, the provisions of which can now be found in IC 5-28-15; and,

WHEREAS, as a result of the adoption of Resolution 10-12 by the Council and Mayor in 2010, these entities were renewed for another five years, which, absent subsequent action, are set to expire on January 31, 2017; and

WHEREAS, businesses making certain investments within the Zone are eligible to receive four types of tax credit and exemption incentives and, if claiming them, must pay a registration fee to the Indiana Economic Development Corporation, which oversees these Zones, and a participation fee (set by the City Council) to the BUEA, which then uses those revenues to operate programs that benefit the Zone (IC 5-28-15 et al); and

WHEREAS, one of these tax incentives is an Enterprise Zone Investment Deduction (EZID), which was created in 2005, under IC 6-1.1-45 et al, and allows tax payers to seek a deduction in property taxes for qualified investments made to property located within an Enterprise Zone; and

WHEREAS, under IC 6-1.1-45-7, a "qualified deduction" means "any of the following expenditures relating to an enterprise zone location on which a taxpayer's zone business is located:

(1) The purchase of a building;
(2) The purchase of new manufacturing or production equipment;
(3) Costs associated with the repair, rehabilitation, or modernization of an existing building and related improvements;
(4) Onsite infrastructure improvements;
(5) The construction of a new building; (and)
(6) Costs associated with retooling existing machinery"; and

WHEREAS, upon completing and filing an EZ-2 form with the County Auditor between March 1st and May 15th, tax payers were entitled to an EZID on property taxes equal to 100% of a qualified investment for a period of 10 years, running from the year the Assessed Value was first reflected that investment; and

WHEREAS, according to the Indiana Legislative Services Agency – Fiscal Issue Review, dated July 1, 2012, the total tax impact of all EZIDs, including those located outside of Tax Increment Financing Districts, for the City of Bloomington in the years 2011 and 2012 amounted to approximately $2.3 million; and

WHEREAS, in 2008, in order to offset some of the effects of the Circuit Breaker legislation, which limited revenues available to local government, the General Assembly added IC 6-1.1-45-9(d)(3), which addressed a subset of qualified investments which were made within "allocation areas" (otherwise known as Tax Incentive Finance [TIF] districts); and

WHEREAS, as a result of this legislation, tax payers seeking an EZID on property located within a TIF district were "entitled to a deduction … *only if* the deduction is approved by … (the City Council)"; and

WHEREAS, in absence of any further statutory guidance on the manner for exercising this power, the Council desires to establish procedures and criteria for considering requests for an EZID located within a TIF district and to delegate the initial review and analysis regarding eligible EZID applicants to staff; and

WHEREAS, the Council finds the following procedures and criteria to be prudent and necessary to preserve the health of the various affected TIF and economic development districts within or adjacent to the Enterprise Zone, the Enterprise Zone itself, and the vitality of the area in general;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. The City Council shall exercise its power set forth in IC 6-1.1-45-9(d)(3) to approve requests for Enterprise Zone Investment Deductions (EZIDs) for qualified investments located within TIF Districts in the following manner:

(a) Applications. The administrative staff of the Bloomington Urban Enterprise Association (BUEA Staff) shall be responsible for processing said EZID applications for review by the Common Council.

(b) Schedule. After consultation with the Office of the Mayor and Office of the Common Council, the BUEA Staff shall prepare a schedule for processing requests in time for relevant staff to review and prepare a statement regarding the application, the Council to consider any legislation in the ordinary course of business, and the applicant to file for the EZID with the County Auditor before May 15th of the year the applicant seeks this deduction.

(c) Written Application, Procedure and Criteria. The BUEA Staff shall prepare written materials that include an application form and a description of the program procedures and criteria for use by applicants. Working in concert with the Economic and Sustainable Development department, the BUEA Staff may elaborate upon, and supplement, the procedures and criteria as long as those actions are consistent with this ordinance.

(d) Ineligible Investments or Applications.

(1) Applications for qualified investments made before March 1, 2011 shall be ineligible for consideration and shall be deemed denied upon proof of the year the qualified investment was made. In addition, applications for qualified investments made more than two years prior to March 1st of the year the application is filed with the City shall also be ineligible for consideration and deemed denied by the BUEA Staff upon proof of that fact. For purposes of this ordinance, the year that a qualified investment is made shall be determined by the date the Assessed Value of the property was first increased due to the qualified investment as described in IC 6-1.1-45-9 (a)(1).

(e) Staff Review and Advisory Statement. The BUEA Staff shall forward applications that are not ineligible under part (d) to the Economic and Sustainable Development (ESD) department which shall act in an advisory capacity by reviewing and preparing a statement to the Council that addresses the public benefits and other impacts of the project (including, but not limited to, employment impact, wage structure, contributions to the area of development, and the nature of ownership and occupation of the property). For purposes of this ordinance the term "project" includes the qualified investment, EZID, and development as a whole. The statement shall address the following:

(1) impact on the intersecting Tax Incentive Finance (TIF) districts;
(2) impact on the Enterprise Zone and BUEA;
(3) impact on the intersecting Community Revitalization Enhancement Districts (CREDs);
(4) impact on the Certified Technology Park (CTP); and
(5) costs, if any, borne by the public as the result of this project.

(f) Council Consideration of Applications. Each year, the BUEA Staff shall apprise the Council of all applications submitted in accordance with the schedule and, for those which are not ineligible under part (d), it shall also submit a resolution, the statement prepared by the ESD department, and any related material for Council review and, when appropriate, formal action. In the event of formal consideration by the Council, the disposition of the application will depend on whether the project significantly promotes the health of the various affected TIF and economic development districts within or adjacent to the Enterprise Zone, the Enterprise Zone itself, and the vitality of the area in general. The City Clerk shall notify the Monroe County Auditor of the final outcome of applications by May 15th of the year the application was filed.

(g) Reports. Upon request of the Council or upon its own initiative, the BUEA Staff may submit reports to the Council for appropriate action. These reports may: include a summary of EZID properties in TIF districts and the value of these deductions, and actions taken since any previous reports; include copies of written materials containing the schedule, application, procedures, and criteria; and, raise, if necessary, any issues for consideration by the Council.

SECTION 2. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 3. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 18th day of DECEMBER, 2013.

DARRYL NEHER, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 19th day of DECEMBER, 2013.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 22ND day of DECEMBER, 2013.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

Enterprise Zone Investment Deductions (EZIDs) are available in the Enterprise Zone and provide a deduction on property taxes equal to 100% of a qualified investment for a period of 10 years, running from the year the Assessed Value of the property first reflected that investment. In 2008, in order to offset some of the effects of the Circuit Breaker legislation, which limited revenues available to local government, the General Assembly added IC 6-1.1-45-9(d), which required legislative body to approve EZIDs for qualified investments made within TIF districts. This ordinance establishes procedures and criteria for consideration of those deductions by the City Council.

Signed copies to:
Legal
Econ Dev.
Hand
BUEA
MC Auditor

CA/CA
Clerk (2)