

**JEFFERSON COUNTY, KANSAS**

**RESOLUTION NO. 2021-001**

**STATEMENT OF POLICIES AND PROCEDURES  
PROPERTY TAX EXEMPTIONS/ABATEMENTS FOR ECONOMIC DEVELOPMENT**

**SECTION 1. PURPOSE**

The purpose of this Statement is to establish the official policies and procedures of Jefferson County to guide the granting of property tax exemptions/abatements for increased valuation regarding real and personal property used for economic development purposes in accordance with the provisions of Article 11, Section 13 of the Kansas Constitution, or qualifying under K.S.A. 79-221, or when associated with the issuance of Industrial Revenue Bonds (IRBs) pursuant to K.S.A. 12-1740 et seq.

**SECTION 2. GENERAL OBJECTIVES**

The securing of diverse private economic growth and development, and the addition of new jobs within the county are important current and long-term objectives of this County. The granting of property tax exemptions/abatements for increased valuation is one of the tools available under Kansas law to help secure these public objectives. This Statement is intended to establish the policies and procedures to govern the fair, effective, and judicious use of the power to grant such exemptions/abatements in this County.

**SECTION 3. LEGAL AUTHORITY**

The governing bodies of Kansas counties may exempt all or any portion of the appraised valuation of certain property used for economic development purposes from ad valorem taxation for a maximum of ten (10) years, in accordance with the provisions of Article 11, Section 13 of the Kansas Constitution, subject to such limitations or prohibitions as may be enacted by the legislature that are uniformly applicable to all cities and counties. This authority is discretionary with the County, and the County may provide for tax exemptions/abatements in an amount and for purposes more restrictive than that authorized by the Constitution or any such legislation. Pursuant to its home rule powers, the County may:

- 1) Require the owners of any property for which an exemption/abatement is requested to provide information of any nature to the County;
- 2) Condition the granting of an exemption/abatement to an agreement providing for the payment of service charges in lieu of taxes (K.S.A. 12-147 and 12-148), and;
- 3) Determine the fees reasonably necessary to cover the costs of administration.

**SECTION 4. POLICY FOR GRANTING BENEFITS**

- 1) Only those firms that qualify under current Kansas law will be eligible for an exemption/abatement for increased valuation. In general, this applies only to manufacturing, research and development, and interstate warehousing businesses.

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- 2) The County shall consult with the applicable city if an application relates to a business located within three (3) miles of that city.
- 3) The County will consider granting tax exemptions/abatements only upon a clear and factual showing of a positive net public benefit to the County through advancement of its economic development goals, including the creation of additional jobs and the stimulation of additional private investment. This determination will be supported by the required Cost Benefit Analysis pursuant to K.S.A. 79-251 as provided under procedures.
- 4) It is the policy of the Board that private businesses should not be subsidized with public funds, which is the indirect consequence of tax exemptions/abatements, unless the public subsidization can reasonably be expected to make a significant net positive difference in achieving economic growth, development and the creation of new jobs within the County. Therefore, any tax exemption/abatement granted by the County shall be subject to the "but for" principle, i.e., the tax incentive must make such a difference in determining the establishment or expansion of the business that the business would not otherwise be established or expanded in the County but for the availability of the tax incentive.
- 5) It shall be the policy of the County to discourage the granting of tax exemptions/abatements which result in the pirating of business from/to another Kansas community. It is the intent of the County to avoid participation in "bidding wars" between counties and cities or areas competing for the location of new business through attempts to offer the largest tax incentive or other public inducement, which is detrimental to the state's economy and the public interest. Therefore, the Board should make a finding that the exemption/abatement is necessary in order to retain jobs in Kansas.
- 6) No tax exemption/abatement shall be granted if it would create, in the judgment of the County Commission, an unfair advantage for one business over another competing business within the County.
- 7) An applicant receiving a tax exemption/abatement pursuant to this Statement shall be required, during any year in which taxes are abated 100%, to make a minimum payment in lieu of tax which equals the amount of property tax which was paid or was payable for the most recent year on the appraised valuation of the real estate (land and buildings) prior to new construction or improvements on the property, or prior to the acquisition of the property, by the qualifying business. The purpose of requiring this minimum in lieu tax payment is to ensure that the County, school district and any other taxing jurisdictions affected by the tax incentive will not receive less tax revenue from the exempted property than was received prior to the exemption/abatement. For extraordinary reasons, such as when vacant buildings are acquired for a new business, or when the market value of the property decreases, this requirement may be waived in part or in whole by the governing body.
- 8) Special assessments levied upon a property are not eligible for exemption/abatement.

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- 9) The period of exemption/abatement shall not exceed 10 years.
- 10) An exemption/abatement granted by the County shall not be revoked or prematurely ended prior to the next annual review solely as a result of a change in the majority ownership or controlling interest of the business. A new application is required for further tax exemption/abatement for such business. A business subject an exemption/abatement shall notified the County of any substantive change in the use of a tax-exempt property.
- 11) The County Commission reserves the right to grant or not to grant a tax exemption/abatement under circumstances beyond the scope of this Statement, or to waive any procedural requirement. However, no such action or waiver shall be taken or made except upon a finding by the County Commission that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest and is in accordance with State law.

### **SECTION 5. POLICY FOR BENEFIT AMOUNTS AND TERMS**

- 1) The County Commission, in determining the amount and term of a tax exemption/abatement for increased valuation to be granted, shall consider various factors including, but not limited to, the following:
  - a. The gain in tax revenue which may result from the new or expanded business, including the increase in the property tax base upon the expiration of the exemption/abatement;
  - b. The contribution that the new or expanded business will make towards increased employment and earnings within the County;
  - c. The kinds of job created in relation to the type of skills available from the local labor market;
  - d. The degree to which the business improves the diversification of the economy of the County and its environs;
  - e. The degree to which the ultimate market for the manufactured products is outside the community, recognizing that outside markets bring in "new money" to the local economy;
  - f. The potential of the business for future expansion and additional job creation;
  - g. The beneficial multiplier effects the business may have by creating or strengthening associated jobs or businesses, including the utilization of locally produced goods and services;
  - h. The beneficial economic impact the business will have on areas of the County that need revitalization or redevelopment;

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- i. The compatibility of the location of the business with land use and development plans of the County;
  - j. The extent to which additional direct or indirect public costs to the County and to other local jurisdictions would be necessary, such as the cost of the extension of public infrastructure and essential public services;
  - k. The net benefit to the residents and taxpayers of those taxing subdivisions which indirectly "subsidize" the business as a result of the forgone tax revenue, and the length of time it takes for the net benefits to equal the amount of the exemption/abatement.
- 2) Tax exemptions/abatements may be guided by the format and parameters as follows. For a qualifying business to be eligible, the new job equivalents must be created and filled by the end of the first year in which the exemption/abatement is granted.
- a. For a new or existing qualifying business that makes an initial investment or an additional investment of at least \$100,000 in real property and/or equipment, and that creates at least five (5) full-time job equivalents up to nineteen (19) full-time job equivalents, and this investment results in a net positive cost benefit analysis, real property tax exemption/abatement shall be as follows:

Year	Percentage of Exemption/Abatement for Increased Valuation
First	100%
Second	80%
Third	60%
Fourth	40%
Fifth	20%
Sixth	0%

- b. For a new or existing qualifying business that makes an initial investment or an additional investment of at least \$250,000 in real property and/or equipment, and that creates at least twenty (20) full-time job equivalents or more, and this investment results in a net positive cost benefit analysis, real property tax exemption/abatement shall be as follows:

Year	Percentage of Exemption/Abatement for Increased Valuation
First	100%
Second	100%
Third	80%
Fourth	80%
Fifth	60%
Sixth	60%
Seventh	40%
Eighth	40%
Ninth	20%
Tenth	20%
Eleventh	0%

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- 3) The exemption/abatement percentage may vary during each year that it is in effect, not to exceed ten (10) years. The exemption/abatement percentage applicable to each year shall be set by the County Commission in the resolution granting the exemption/abatement.

### **SECTION 6. PROCEDURES**

- 1) **General Procedures** – The following basic procedures shall govern the issuance of tax exemptions/abatements within the County:
  - a. The applicant business shall apply for a tax exemption/abatement by filing a written application as provided in this Section, including information as necessary to determine that the request qualifies for an Article 11, Section 13 exemption;
  - b. The County shall then determine whether the requested tax exemption/abatement:
    - i. may be lawfully granted, and
    - ii. should be granted, and
    - iii. in what amount to be granted.
  - c. If it is determined that some tax exemption/abatement should be granted, up to 100% exemption of that property of the business legally eligible may be provided, and may be subject to an agreement of the business to make an in lieu of tax payment as may be required by the County.
  - d. The amount of the tax incentive, which will be an amount less than or equal to the taxes otherwise payable if the property were not exempt, will then be determined in accordance with this Statement.
  - e. Upon the failure of the business to fully and timely pay in lieu tax payments, as may be required as a condition of granting an exemption/abatement, or to provide reports or other information requested by the County, the County may either deny, revoke, or not renew the authorization of such an exemption/abatement.
- 2) **Application** – Submittal of a full and complete application and the applicable fee is required for the County to consider granting any tax exemption/abatement. The applicant business shall apply for a tax exemption/abatement by filing a written application as follows, including information as necessary to determine that the request qualifies for an Article 11, Section 13 exemption;
  - a. The County Clerk and County Appraiser are authorized and empowered to prepare a standard application form which, upon completion, will provide the County Commission with adequate and sufficient information to determine whether an exemption/abatement should be granted and the amount thereof.

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- b. All information submitted must be verifiable. The accuracy of the information provided in the application shall be verified in affidavit form by the applicant. The property owner is required to sign the application before a Notary Public.
  - c. Any misstatement or error in fact may render the application null and void and may be cause for the repeal of any resolution adopted by reliance on said information.
  - d. Any business requesting a tax exemption/abatement pursuant to this Statement shall pay the required application fee before the application shall be considered.
- 3) **Determination of Completeness** – On receipt of the completed application form and the required fee, the Jefferson County Board of County Commissioners, or designated appointee, shall determine:
- a. whether the application is complete and sufficient for review, and
  - b. whether the applicant business is eligible for an exemption/abatement under the Kansas Constitution, this Statement and any other applicable laws.

If the application is incomplete, the County Appraiser or County Clerk shall immediately notify the applicant noting the need for such changes or additions as deemed necessary. If questions arise as to whether the business is legally eligible for an exemption/abatement, the matter shall be referred to the County Counselor, who shall consult with the applicant business. If the application is found complete and is for a purpose which appears to be authorized by law, the County Appraiser, County Clerk or County Counselor shall so notify the County Commission.

- 4) **Administrative Review Committee** – There is hereby created an Administrative Review Committee whose purpose is to receive and review requests and applications for tax exemptions/abatements, to gather and review such additional information as may be deemed necessary, to conduct preliminary negotiations with the applicant business, and to make such recommendations as deemed advisable to the County Commission.
- a. The Administrative Review Committee shall consist of the County Treasurer, County Clerk, County Appraiser, the Community Development Director, and one member of the Jefferson County Board of County Commissioners.
  - b. The Administrative Review Committee shall meet on the call of the County Commission.
  - c. Administrative Review Committee records, including applications for tax exemptions/abatements, may be withheld from public disclosure under the Kansas Open Records Act as provided for under subsections (20) and (31) and other subsections of K.S.A. Supp. 45-221, but shall be available for public inspection when otherwise required by law.

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- d. The Committee shall conduct an analysis of the costs and benefits of each proposed exemption/abatement in accordance with K.S.A. 79-251, including the effect of the exemption/abatement on state revenues, and shall report its findings to the County Commission.
  - e. The Committee is authorized to issue administrative letters of intent when requested by the applicant upon a finding that the public interest requires confidentiality in order to successfully negotiate the location of the prospective business within the County or the expansion of an existing business. Such administrative letters of intent shall not be binding on the County Commission and shall be superseded by any final letter of intent or Resolution issued by the County Commission.
- 5) **Letters of Intent** – Upon receiving the recommendations of the Administrative Review Committee, the County Commission may issue a letter of intent, setting forth in general terms its proposed plans for granting a tax exemption/abatement and any conditions as follows:
- a. Such letters of intent may be issued by the County Commission as an expression of good faith intent, but shall not in any way bind the County to the granting of a tax exemption/abatement. No elected or appointed officer, employee or committee of the County, and no other public or private body or individual, shall be authorized to speak for and commit the County Commission to the granting of a tax exemption/abatement.
  - b. Such letters of intent shall expire six (6) months after issuance but may be renewed.
  - c. A public hearing shall not be required prior to the issuance of letters of intent.
  - d. Letters of intent issued by the County Commission shall supersede any letter issued by the Administrative Review Committee.
- 6) **Notice and Hearing** – No tax exemption/abatement shall be granted by the County prior to a public hearing as follows:
- a. Upon receiving the recommendations of the Administrative Review Committee regarding a qualifying application, the County Commission shall schedule a public hearing. Notice of the public hearing shall be published at least once seven (7) days prior to the hearing in the official County newspaper, giving the purpose, time and place. The hearing may be held at a regular or special meeting of the County Commission.
  - b. In addition to such publication notice, the County Clerk shall notify by Certified Mail the superintendent of the appropriate school district, and the clerk of the township and any other taxing jurisdiction, excluding the state, which derives or could derive property taxes from the affected business, and the clerk of any city located within three (3) miles of the property, advising them of the scheduled public hearing, providing them with a copy of the cost-benefit analysis, and inviting their review and comment.

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- c. Upon request, the County Clerk shall provide any such public agency with a copy of the application. The applicant business shall be invited, but not required, to attend the public hearing.

### 7) Exemption Resolution

- a. Prior to the granting of a tax exemption/abatement for any property from ad valorem taxation pursuant to the provisions of Article 11, Section 13 of the constitution of the state of Kansas, the Board of County Commissioners shall be required to adopt a resolution containing the following findings of fact:
  - i. That the property for which the exemption/abatement is to be granted will be used exclusively for the purposes specified in Article 11, Section 13 of the constitution of the state of Kansas; and
  - ii. If the business using the property is relocating from one city or county to another within the state of Kansas, that the business has received approval of the Secretary of Commerce prior to qualifying for the exemption/abatement upon a finding by the Secretary that such relocation is necessary to prevent the business from relocating outside the state.
- b. The County Clerk shall provide a copy of the RESOLUTION, as published in the official County newspaper, granting an exemption/abatement from taxation to the applicant for use in filing an initial request for tax exemption/abatement as required by K.S.A. 79-213 and K.S.A. 79-210 for subsequent years.

### 8) Application to the Kansas Board of Tax Appeals (BOTA)

- a. The applicant shall obtain, complete and submit to the County Appraiser an application for exemption/abatement pursuant to Article 11, Section 13, including evidence that K.S.A. 79-250, 79-251, 79-253, and 79-221, if applicable, are satisfied and all other necessary fees and information are received.
- b. The County Appraiser will consider the application for property exemption/abatement, offer comments, and forward all information to the Kansas Board of Tax Appeals (BOTA).
- c. The Kansas Board of Tax Appeals (BOTA) will review the application and issue an order setting forth its decision, or set the case for a public hearing.
- d. Once BOTA's order becomes final, the County Appraiser may remove the property from the tax rolls as specified in the order. The order shall refer to the County Resolution for the period of exemption/abatement, any payment in lieu of tax agreement, or partial exemption/abatement schedule.



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- 9) **Distribution of Revenue** – The granting of tax exemptions/abatements by the County is hereby declared to be a contract under the provision of K.S.A. 12-147. The in lieu of taxes payment which may be required of a business granted a tax exemption under this Statement shall be paid to the County Treasurer. The County Treasurer is directed to apportion the payment, under the provision of subsection (3) of K.S.A. 12-148, to the general fund of all taxing subdivisions, excluding the state, which levy taxes on property where the business is situated. The apportionment shall be based on the relative amount of taxes levied, for any and all purposes, by each of the applicable taxing subdivisions.
- 10) **Annual Review and Compliance Monitoring** – The extent and term of any tax exemption/abatement granted shall be subject to annual review and determination by the County Commission to ensure that the ownership and use of the property and any other qualifying criteria of the business for the tax exemption/abatement continue to exist, and to ensure compliance with the terms and conditions of the exemption/abatement. The review shall proceed as follows:
- a. On or before January 31 of each year during the period of exemption/abatement, the applicant must file with the County Appraiser a claim for exemption/abatement per K.S.A. 79-210, including a written statement by affidavit that the property continues to meet all the terms and conditions established as a condition of granting the exemption/abatement.
  - b. The County Commission will review actual payroll, investment, construction, and other applicable information and perform another cost-benefit analysis. If the numbers do not support the original exemption/abatement, then another resolution may be adopted with new terms for lowering or discontinuing the tax exemption/abatement. In no case will the exemption/abatement be increased as a result of this new analysis.
  - c. The County Commission shall complete the annual review and determination not later than March 31 of each year.
  - d. The County Clerk will certify the new terms and resolution to the County Appraiser.
- 11) **Annual Assessment** – All tangible property of a business receiving a tax exemption/abatement under this Statement shall be annually assessed by the County Appraiser in the same manner as if it were not exempt, but the amount placed on the assessment rolls shall be reduced by the percentage of tax exemption/abatement granted. The amount of the property taxes which would be payable shall also be determined annually by the County Appraiser, in the same manner as if the property were not exempt, but such amount shall be reduced by the percentage of tax exemption/abatement granted. Separate assessment and tax calculations shall be made for the land, for the improvements thereon, and for any tangible personal property associated therewith, of the exempt business. The appropriate county officers are requested to provide the County with this information as early as possible, but not later than November 15 of each year.

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### **SECTION 7. DEFINITIONS**

For the purpose of this Statement, in application to this County, the words or phrase used in either the Constitution or this Statement shall have meaning or be construed as follows:

- 1) *"Abatement"* refers to a partial reduction of property taxes for the applicant firm.
- 2) *"Applicant"* shall mean and include the business, property owner or owners, and their officers, employees and agents.
- 3) *"Associated therewith"* as used with respect to tangible personal property means being located within, upon, or adjacent to buildings or added improvements to buildings.
- 4) *"Economic development purposes"* means the establishment of a new business or the expansion of an existing business engaged in manufacturing articles of commerce, conducting research and development, or storing goods or commodities which are sold or traded in interstate commerce, which results in additional employment.
- 5) *"Exemption"* refers to a 100% reduction of property taxes for the applicant firm.
- 6) *"Expansion"* means the enlargement of a building or buildings, construction of a new building, the addition of tangible personal property, or any combination thereof which increases the employment capacity of a business and which results in the creation of new employment.
- 7) *"Full-time equivalent job"* means employment for 1,664 hours per calendar year. In the initial year of operation of a firm, such number of hours may be prorated based on the number of full months of operation during such calendar year.
- 8) *"Manufacturing articles of commerce"* means a business engaged in the mechanical or chemical transformation of materials or substances into new products, as defined in the Standard Industrial Classification Manual.
- 9) *"Research and development"* means the application of science or technology to the improvement of either the process of manufacturing or manufactured products or both.
- 10) *"Storing goods or commodities which are sold or traded in interstate commerce"* refers to the business of storing property which may be exempt from ad valorem taxation under the provisions of K.S.A. 79-201(f).
- 11) *"Tangible personal property"* means machinery and equipment used during the term of the tax exemption which may be granted.

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**ADOPTED** by the County Commission of Jefferson County on this 4<sup>th</sup> day of January 2020.  
2021.

**BOARD OF COUNTY COMMISSIONERS  
JEFFERSON COUNTY, KANSAS**

[Redacted Signature]

Lynn Luek, Chair

[Redacted Signature]

Richard Malm, Vice Chair

[Redacted Signature]

Wayne Ledbetter, Member



[Redacted Signature]

Linda Buttron  
County Clerk of Jefferson County, Kansas