

## **RESOLUTION 8-27-96**

### **A RESOLUTION ESTABLISHING THE POLICY AND PROCEDURES FOR TAX EXEMPTION AND INCENTIVES FOR ECONOMIC DEVELOPMENT FOR THE CITY OF PAOLA, STATE OF KANSAS.**

WHEREAS, the Kansas State Constitution in Section 13 of Article II authorizes the granting of tax exemptions subject to limitations placed upon said Section 13 by the state legislature; and

WHEREAS, the Kansas Legislature has placed limitations upon the authority to grant tax exemptions through K.S.A. 79-251, et seq.; and,

WHEREAS, it is the desire and intention of the City Council of Paola to bring said City into compliance with K.S.A. 79-251 et seq. by the adoption of the following policy and procedures for tax exemptions to be granted by City of Paola, Kansas.

IT IS RESOLVED BY THE CITY COUNCIL OF PAOLA, KANSAS that the following policy and procedures for tax exemptions for City of Paola is hereby adopted and shall become effective upon the date of the signing of this resolution.

### **CITY OF PAOLA, KANSAS POLICY AND PROCEDURES** **FOR TAX EXEMPTIONS AND INCENTIVES**

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**SECTION 1. PURPOSE.** The purpose of this statement is to establish the official policy and procedures for City of Paola, Kansas for the granting of property tax exemptions for real and personal property used for economic development purposes in accordance with the provisions of Section 13 of Article II of the Constitution of the State of Kansas and is required by K.S.A. 79-251, et seq.

**SECTION 2. OBJECTIVES.** The City is committed to the high quality and balanced growth and development of the community, to working continually to improve the quality of life for its citizens, and to maintaining a highly skilled, globally competitive work force. Insofar as these objectives are generally served by the expansion of the tax base and enhancement of the local economy, the city will, on a case-by-case basis, give consideration to providing tax abatement as a stimulant, available under Kansas law, for the economic development of the community. It is the policy of the city that said consideration will be provided in accordance with the guidelines, criteria and procedures outlined in this Resolution. This resolution is intended to govern the fair, effective and judicious use of the power to grant such exemptions. Nothing herein shall imply or suggest that the city is under any obligation to provide tax abatement to any applicant.

The city works in cooperation with the Paola Chamber of Commerce and the Miami County Economic Development Corporation to achieve the general objectives outlined above. This partnership enables the community to maximize its resources and to develop an consensus regarding the kind of economic development that best advances the interests of the community. Following is a list of target business and industry types which fit the development profile of the community for those businesses which may qualify in accordance with Section 13 of Article 11 of the Constitution of the State of Kansas:

- (a) Environmentally sound research and development projects;
- (b) Environmentally sound light industrial projects;
- (c) Warehouse and distribution;
- (d) Other types of businesses involved in economic development which the City Council may determine will advance the interests of the City.

**SECTION 3. ECONOMIC DEVELOPMENT OBJECTIVES.** The City of Paola has chosen the following objectives for determining which firms will best advance the interests of the entire city and be eligible for tax incentives:

1. encourage existing businesses to expand;
2. assist new business start-ups;
3. recruit new companies from out-of-state;
4. support environmentally sound companies that will not detrimentally effect the City's environment;
5. encourage small and medium size firms that will help the City avoid becoming dependent on one industry;
6. expand the total tax base for the City of Paola by supporting firms that will make an investment in taxable property that will significantly increase the City's tax base;
7. encourage those firms which will generate positive benefits for the City overall and will not place great stress on City governments and schools;

8. encourage the addition and retention of jobs with wages and benefits that meet or exceed the state average as determined by the Kansas Department of Human Resources Wage Survey;
9. a reasonable expectation that the availability of an abatement will make a difference in determining whether a new business, under consideration for tax exemptions, will locate within the City or a present business, being courted by other communities, will remain within the City.

**SECTION 4. LEGAL AUTHORITY.** The governing bodies of Kansas counties and cities may exempt certain property used for economic development from taxes for a maximum of 10 years in accordance with the provisions of Section 13 of Article II of the Kansas Constitution, subject to the requirements of K.S.A. 1991 Supp. 79-251, et seq. This authority is discretionary with the city, and the city may provide tax exemptions-incentives in an amount and for purposes more restrictive than that authorized by the Constitution or state laws. Pursuant to its home rule and statutory powers, the city may (1) require the owners of any property for which an exemption is requested to provide certain information, (2) condition the granting of an exemption to an agreement providing for the payment of in-lieu charges or taxes under the provisions of K.S.A. 12-147 and 12-148, and (3) require payment of initial application and annual renewal fees reasonably necessary to cover the costs of administration.

**SECTION 5. GENERAL PROCEDURE.** The following basic procedure shall govern issuance of tax exemptions within this City:

(1) The applicant business shall file a written application as provided by Section 15. Only new real and personal property that is not already on City of Paola tax rolls shall be eligible except as provided for in the case of vacant buildings that have been vacant for a considerable period of time as outlined in Section 8.

(2) The city upon determining that (a) the requested tax exemption may be lawfully granted, and (b) the initial request is worthy of further consideration, shall prepare a cost-benefit analysis report of the requested tax exemption as provided for in Section 12.

(3) The city shall then determine whether the proposed tax exemption should be granted, following a public hearing after proper notice as required by law has been given.

(4) The city shall then determine the amount of the tax exemption to be given based upon the analysis required in Section 14 and the results of the public hearing, subject to an agreement with the business to make an in lieu tax payment as required by the city.

(5) The city shall submit notice of its intent to issue a tax exemption to the State Board of Tax Appeals, or any other agency required by state law, for final approval. If approval is denied, the exemption cannot be granted.

(6) The city, upon failure of the business to fully and timely pay the in lieu tax payments as may be required as a condition of granting of an exemption or upon failure of the business to

provide reports or other information requested by the city and necessary for the implementation of this policy, may either revoke or modify the authorization for the tax exemption.

**SECTION 6. JURISDICTION.** The city shall grant tax exemptions only for property located within the corporate city limits.

**SECTION 7. NOMINAL TAX DETERMINATION.** All tangible property of a business receiving a tax exemption under this statement shall be annually assessed by the County Appraiser in the same manner as if it were not exempt but the amount thereof shall not be placed on the assessment rolls. The amount of the property taxes which would be payable shall also be determined annually by the County Clerk and County Treasurer, in the same manner as if the property were not exempt, but such amount shall not be placed on the tax rolls. Separate assessment and tax calculations shall be made for the (1) land; (2) the improvements thereon; and (3) for any tangible personal property associated with the business. The County Clerk and County Treasurer are requested to provide the city with this information as early as possible, but not later than November 15 of each year.

**SECTION 8. MINIMUM PAYMENT IN LIEU OF TAXES.** Any applicant receiving a tax exemption, pursuant to this Statement, shall be required to make a minimum payment in lieu of taxes. The minimum payment shall equal the amount of property tax paid or payable for the most recent year prior to the acquisition of the property by the new business or the construction of new buildings or added improvements to the buildings. The purpose of requiring such a minimum payment in lieu of taxes is to provide the city, school districts, county and any other taxing jurisdictions affected by the exempted property with equal, if not more, tax revenue from the exempted property than was received prior to the exemption. When vacant buildings are purchased or leased by a new or expanding business or when the market value of the property decreases, this requirement may be waived, in part or in whole, by the City Council as provided in Section 27.

**SECTION 9. SPECIAL ASSESSMENTS.** Any tax exemption granted for real property under this statement shall not effect the liability of such property for any special assessments levied or levied in the future against such property.

**SECTION 10. PIRATING.** It shall be the policy of the City of Paola to discourage applications for tax exemptions, or to grant such tax incentives, which deliberately encourage and cause the pirating of business from another Kansas city to this city, or from this city to another Kansas city. It is the intent of the City of Paola to avoid participation in "bidding wars" between cities, counties or other areas competing for the location of new businesses or expansion of existing businesses through attempts to offer the largest tax incentive or other public inducement which is detrimental to the state's economy and the public interest. This policy shall not preclude providing information to companies that inquire about the City of Paola or are seeking an expansion rather than a relocation. It also does not preclude the granting of a tax exemption in those situations where: (a) the company has already made a decision to relocate or expand, or (b) the company is seriously considering moving out of the state.

**SECTION 11. "PUBLIC GOOD" REQUIREMENT.** It is the policy of the City of Paola that private businesses should not be subsidized with public funds, the indirect consequence of tax

exemptions, unless the public good is served and the public subsidization can reasonably be expected to achieve economic growth and development and create new jobs within the city.

**SECTION 12. ANALYSIS OF COSTS AND BENEFITS.** The City, in determining whether a tax exemption should be granted, shall conduct a cost-benefit analysis as whether the benefits outweigh the costs of the exemption, and shall consider various factors including, but not limited to, the following:

- (a) The increase in appraised valuation of the property.
- (b) 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.
- (c) The number of new jobs, the earnings and the benefits that will be created directly by the business.
- (d) The expenditures that local governments will need to make to provide streets and utilities, police and fire protection and other services to the company itself.
- (e) The expenditures for police and fire protection, recreation, street maintenance, etc. for new residents associated with the company.
- (f) The expenditures for capital investments (streets, sewer plants, airports, water lines, etc.) for new residents associated with the company.
- (g) The expenditures by local school districts to provide facilities and to educate students of new residents associated with the company.
- (h) Other public or private expenditures associated with attracting the new company.
- (i) The degree to which the business improves the diversification of the City's economy.
- (j) The utilization by the business of local labor skills and abilities of unemployed persons within the City.
- (k) The degree to which the ultimate market for the business' products and services is outside the community, recognizing that outside markets bring "new money" to local economies.
- (l) The potential of the business for future expansion and additional job creation.
- (m) The beneficial impact the business may have by creating other new jobs and businesses, including the utilization of local products or other materials and substances in manufacturing.

(n) The beneficial economic impact the business will have on a particular area of the City, including designated enterprise zones and areas of needed revitalization or redevelopment.

(o) The compatibility of the location of the business with land use and development plans of the City and the availability of existing infrastructure facilities and essential public services.

**SECTION 13. NO UNFAIR ADVANTAGE.** No tax exemption shall be granted if the exemption would create, in the judgment of the City Council, an unfair advantage for one business over another competing business within the city or for any business which commenced operations prior to the adoption of this policy unless the exemption is for new buildings and equipment.

**SECTION 14. AMOUNT OF TAX EXEMPTION.** The two primary objectives of the city in granting tax exemptions for economic development are to (1) provide needed jobs, and (2) expand the economic and tax base of the city. The city recognizes that a simple system of determining the amount of tax incentives to be granted to reach these objectives may not always be equitable if applied uniformly to different types of businesses. The city will consider the factors and criteria set forth in section 12 of this resolution.

**SECTION 15. APPLICATION REQUIRED.** The city will not consider the granting of any tax exemption unless the business submits a full and complete application and provides any additional information as may be requested by the city. The City Manager is hereby authorized and empowered to prepare a standard application form which, upon completion, will provide the City Council with adequate and sufficient information to determine whether a tax exemption should be granted and the amount thereof. The accuracy of the information provided in the application shall be verified by the applicant. Any misstatement of or error in fact may render the application null and void and may be cause for the repeal of any resolution adopted in reliance on said information.

**SECTION 16. APPLICATION AND RENEWAL FEES.** Any business requesting a tax exemption pursuant to the Statement shall pay to the city an application fee of \$250.00 which shall be submitted at the same time the application form required in Section 15 is submitted. In addition, any business which has been granted a tax exemption shall pay an annual renewal fee of \$100.00.

**SECTION 17. INITIAL REVIEW PROCEDURE.** Upon receipt of the completed application form and the required fee, the City Manager shall determine (1) whether the application is complete and sufficient for review and (2) whether the applicant's business is eligible for an exemption under the Kansas Constitution, this statement or any other applicable state laws. If the application is incomplete, the City Manager shall immediately notify the applicant noting the need for such changes or additions as are necessary. If questions arise as to whether the business is legally eligible for an exemption the matter will be referred to the City Attorney 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 City Manager shall so notify the Board of Review.

**SECTION 18. BOARD OF REVIEW.** The Board of Review is comprised of seven (7) members. The School Board and County Commissioners shall each nominate one member to represent their respective governmental units as granting of a tax abatement will affect the tax base of their jurisdictions. The City Manager shall represent the City of Paola. Two (2) members shall be nominated by the Mayor. One (1) members shall be nominated by the Miami County Economic Development Corporation. One (1) member shall be nominated by the Board of the Paola Chamber of Commerce. All appointments are subject to approval by the City Council. The Chairman of the Board of Review is selected by the Board Members. The Board of Review shall (1) receive and review requests and applications for tax exemptions; (2) to gather and review such additional information as may be deemed necessary to determine if a company meets the target objectives of Section 3; (3) to conduct preliminary negotiations with the applicant business; (4) to make recommendations for tax exemptions to the City Council and (5) conduct an annual review of the tax exemptions as provided in Section 22 and make recommendations regarding the continuation of the tax exemptions to the City Council. Board of Review records, including applications for tax exemptions and administrative letters, may be withheld from public disclosure under the Kansas Open Records Act as provided for in K.S.A. 45-221 et seq., but shall be available to public inspection when otherwise required by law. The Board is authorized to issue administrative letters of finding which shall not be binding upon the City Council and may be superseded by any final action of the City Council.

**SECTION 19. INITIAL CITY COUNCIL ACTION.** Upon receiving the recommendations of the Board of Review, the City Council shall first determine whether to reject the requested exemption or to further consider the request. Upon a favorable vote for further consideration, the City Council may issue a letter of intent as provided by Section 20 and schedule a public hearing thereon.

**SECTION 20. LETTERS OF INTENT.** Upon receiving the recommendation of the Board of Review, the City Council may issue a letter of intent setting forth in general terms the city's proposed plans for granting a tax exemption and any conditions thereto. Such letters of intent shall be issued only as an expression of good faith and shall not in any way bind the City Council to the granting of an exemption. Such letters of intent shall expire six months after issuance, but may be renewed. A public hearing shall not be required prior to the issuance of letters of intent. No elected or appointed officer, employee or committee of the City, or other public or private body or individual, shall be authorized to speak for and commit the City Council to the granting of a tax exemption. Any letters of intent issued by the City Council shall supersede any letters issued by the Board of Review.

**SECTION 21. NOTICE AND HEARING.** No tax exemption shall be granted by the City prior to a public hearing thereon. Notice of the public hearing shall be published at least seven (7) days prior to the hearing in the official city newspaper, giving the time and place. The hearing may be held at a regular or special meeting of the City Council. The City Clerk shall notify the Superintendent of the appropriate school district and the secretary of any other taxing jurisdiction, excluding the state, which derives or could derive property taxes from the affected business, advising them of the scheduled public hearing and inviting their review and comment. Upon request, the City Clerk shall provide any public agency with a copy of the application.

The contents of the application shall remain confidential unless released by the City Council. The applicant business shall be invited, but not required, to attend the public hearing.

**SECTION 22. ANNUAL REVIEW.** Each business receiving a tax exemption shall be required to file an annual report by February 1 of each year. The information in the report will cover the time period from January 1 through December 31 of the prior year and shall indicate compliance with the terms or conditions established by the City Council for the granting of the exemption. Annually, the Board of Review shall review any tax exemption to insure that the ownership and use of property and other qualifying criteria outlined in Section 12 continue to exist and are adequately satisfied. The Board of Review shall make a record of its findings and advise the City Council regarding the tax exemption. The City Council may remove or modify the exemption.

Upon the Council's finding that all conditions of the tax exemption have been met, the City Clerk shall forward a certified copy of the findings to the business owner prior to March 1 of each year so that the business owner can file an exemption claim with the County Appraiser pursuant to K.S.A. 79-210.

**SECTION 23. TRANSFER OF OWNERSHIP OR USE.** No exemption or tax incentive granted by the City of Paola shall be transferred as a result of a change in the majority ownership of the business. Any new majority owner shall file a new application for a tax exemption. Further, the City shall be notified by the business of any substantive change in the use of a tax exempt property.

**SECTION 24. DISTRIBUTION OF REVENUE.** The granting of tax exemptions by the City is hereby declared to be a contract under the provisions of K.S.A. 12-147. The in-lieu tax payment, which may be required by a business granted a tax exemption under this Statement, shall be paid to the County Treasurer, with notice of the amount and date paid provided to the City Council. The County Treasurer is directed, pursuant to K.S.A. 12-148, to apportion the payment 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 purposes, by each of the applicable taxing subdivisions.

**SECTION 25. EXEMPTION RESOLUTION.** The City Clerk shall provide a copy of the resolution, as published in the official City newspaper, granting an exemption from taxation to the applicant for use in filing an initial request for tax exemption as required by K.S.A. 79-213 and by K.S.A. 79-210 for subsequent years.

**SECTION 26. EXEMPTION FORMS.** A copy of the exemption applications required by K.S.A. 79-213 and 79-210, and the statement required by K.S.A. 79-214 for the cessation of an exempt use of property, shall be filed with the City Clerk by the property owner.



**SECTION 27. WAIVER OF STATEMENT REQUIREMENTS.** The City Council reserves the right to grant or not to grant a tax exemption 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 City Council that a compelling or imperative reason or emergency exists and that such action or waiver is declared to be in the public interest. The City Council shall not waive any procedural requirements set forth under state law.

**SECTION 28. DEFINITIONS.** For the purpose of this resolution the words or phrases as used shall have the following meaning:

- (a) "Applicant" shall mean and include the business, property owner or owners, and their officer, employees and agents.
- (b) "Associated therewith" as used with respect to tangible personal property shall mean being located within, upon or adjacent to buildings or added improvements to buildings.
- (c) "Commenced operations" shall mean the start of the business activity housed in the building for which a tax exemption is requested.
- (d) "Economic development purposes" shall mean the expansion of an existing business or the establishment of a new business enterprise which is located within the City of Paola that is primarily engaged in manufacturing, conducting research and development, or storing goods or commodities which are sold or traded in interstate commerce, which results in additional employment.
- (e) "Primarily engaged" means engagement in an activity by a business to the extent that not less than 51% of the gross income of the business is derived from such engagement.
- (f) "Expansion" shall mean the enlargement of a building or buildings, construction of a new building, the addition of tangible personal property, or any combination thereof, which is new to the tax rolls and increases the employment capacity of a business eligible for a tax exemption.
- (g) "Tangible personal property" shall mean machinery and equipment new to the tax rolls and used during the term of the tax exemption which may be granted.

**SECTION 29. REPEAL OF PRIOR RESOLUTIONS.** Any and all other Resolutions in conflict herewith are hereby repealed.

ADOPTED BY THE CITY OF PAOLA, KANSAS CITY COUNCIL this 27th day of August, 1996.

APPROVED By the Mayor this 27th day of August 1996.

\_\_\_\_\_  
FLOYD J. GRIMES, Mayor

ATTEST: [SEAL]

\_\_\_\_\_  
JILL ANN HOLMES, City Clerk

CITY OF PAOLA, KANSAS  
TAX ABATEMENT APPLICATION

1. Name/Names Of Applicant: (To include names of owner/owners and name of corporation)
  
2. Briefly describe your business: (Nature of business, items produced or services provided, locations of customers, percentage of business sales that originates from out of City sources, need for nearby ancillary suppliers or services, any special licenses required by state or federal law, etc.)
  
3. Location, zoning classification and description of property for which you are seeking tax abatement.
  
4. Are you expanding upon an existing city of Paola business or are you starting a new business in the City of Paola?
  
5. How many new jobs will you be adding to the work force?

How many of these new jobs will be filled by current City residents?

Will city residents have the skills to fill the available positions? If not, will you provide training?

How many out-of-city employees do you expect to establish residency in the City of Paola?

Indicate the total number of new employees in each of the following salary ranges one year after hire.

\$12-16,000	\$30-35,000
\$16-20,000	\$35-40,000
\$20-25,000	\$40-50,000
\$25-30,000	\$50,000 +

Indicate the total number of current employees and the number within the salary ranges stated below:

Total current employees: \_\_\_\_\_

\$12-16,000	\$30-35,000
\$16-20,000	\$35-40,000
\$20-25,000	\$40-50,000
\$25-30,000	\$50,000 +

How many current employees are city residents? \_\_\_\_\_

6. What is the total value of new construction or improvements for the real property in which you are seeking an abatement?

How much, if any, of new construction/improvements will be supplied by City of Paola businesses (materials and services):

What is the current appraised value of the land?

7. What is the value of new equipment that will be or become part of the city's tax rolls?

Will any of this equipment be purchased from City of Paola businesses? If so, state value.

Will any other personal property besides equipment be added to the city's tax rolls? If so, state value.

8. State the amount of supplies or services that you are currently purchasing from City of Paola businesses.

State the additional amount of supplies or services that you anticipate purchasing in the future from city businesses.

9. State the total amount of current real property taxes for the real estate upon which you are seeking an abatement.

State the total amount of personal property taxes that you are currently paying on an existing City of Paola business.

Are you willing to make payments in lieu of taxes?

10. Will you require, or are you requesting, any improvements by the city for streets and roads, utilities, police and fire protection or other services? If so, state what specific improvements will be needed?

Are you requesting improvements by other governmental bodies or private groups? If so, what and by whom?

11. For how many years are you requesting a tax abatement?

Are you requesting the tax abatement for real property taxes, personal property taxes, or both?

Are you willing to locate or expand in the City of Paola without the requested tax abatement?

If you do not receive a personal property tax abatement, will you be moving your business out of state?

If the city's analysis of this application determines that you do not qualify for the maximum abatement that you are requesting, will you accept a lesser abatement?

Affirmation and verification of application

I/we hereby affirm and verify that the above and foregoing information is correct to the best of my/our knowledge and that incorrect or misleading information may render this application null and void or cause a tax exemption to be revoked.

\_\_\_\_\_  
Name, Title, Date

STATE OF KANSAS

CITY OF PAOLA

BE IT REMEMBERED, That on this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ before me, the undersigned, a notary public in and for the City and State aforesaid came \_\_\_\_\_ of \_\_\_\_\_ a corporation duly organized, incorporated and existing under and by virtue of the laws of \_\_\_\_\_, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed, as such officer, the aforesaid Application for Tax Abatement for the City of Paola, Kansas, on behalf of said corporation, and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above mentioned.

\_\_\_\_\_  
NOTARY PUBLIC

My term expires \_\_\_\_\_, 20\_\_.