

RESOLUTION NUMBER 91-4265

A RESOLUTION ADOPTING A POLICY FOR THE GRANTING OF EXEMPTIONS FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN THE CITY OF SALINA, KANSAS.

WHEREAS, Section 13 of Article 11 of the Kansas Constitution authorizes the governing body of any city to grant property tax exemptions for certain economic development purposes; and

WHEREAS, the Board of City Commissioners has determined that, under certain circumstances, the granting of property tax exemptions can be an effective economic development tool; and

WHEREAS, state statutes require that the governing body develop and adopt official policies and procedures prior to granting such exemptions; SO NOW, THEREFORE

BE IT RESOLVED by the Governing Body of the City of Salina, Kansas:

Section 1. Purpose. The purpose of these provisions is to establish the official policies and procedures of the City of Salina for the granting of property tax exemptions for real and tangible personal property used for qualified economic development purposes under Section 13 of Article 11 of the Kansas Constitution.

Section 2. Authority and discretion. The authority to grant tax exemptions within the City of Salina is vested solely in the Board of City Commissioners. The Board of City Commissioners is under no obligation to approve any requested exemption and reserves the right to deviate from the policies and criteria contained herein if circumstances exist to warrant such deviation. Such circumstances may include, but not be limited to: (a) economic development projects financed by means that substitute for industrial development bonds for which resolutions of intent containing tax exemption have previously been issued thus resulting in a reduction in the amount of the resolution of intent; or (b) economic development projects which, due to their unusual nature or magnitude, offer extraordinary benefits to the community.

Section 3. Notice and hearing. Prior to granting a tax exemption, a public hearing shall be held by the Board of City Commissioners. Notice of the public hearing shall be published at least once seven (7) days prior to the hearing and shall indicate the purpose, time and place thereof. The City Clerk shall also notify in writing the governing body of Saline County and Unified School District 305.

Section 4. Criteria for granting exemption. Each application for property tax exemption shall be evaluated in accordance with the following criteria:

- A. Demonstration of economic benefit. The Board of City Commissioners may consider granting said tax exemption only upon clear and factual demonstration of direct economic benefit. The project shall create additional permanent jobs and increase private capital investment in new plant and/or equipment.
- B. Preservation of existing tax base. It is the intent of this policy to promote expansion of the tax base and ensure that the taxing districts having authority to levy taxes on the property affected will receive, in the future, not less than the amount received prior to granting the exemption.
- C. Eligible businesses. In accordance with Article 11 of the Kansas Constitution, a tax exemption will be considered only for businesses engaged in the following activities:
  1. Manufacturing articles of commerce;
  2. Conducting research and development; or

3. Storing goods or commodities which are sold or traded in interstate commerce.
- D. Eligible property. The Board of City Commissioners may exempt from ad valorem taxation all or any portion of the appraised valuation of:

1. All newly constructed buildings or additions to existing buildings used exclusively for eligible business activities which is necessary to facilitate the formation of a new business or expansion of an existing business if, as a result of such formation or expansion, new employment is created.
2. All newly acquired or existing tangible personal property used exclusively for eligible business activities, except that no existing tangible personal property located in the state of Kansas may be granted an exemption unless said exemption is required, based on a factual determination, to retain jobs in the state of Kansas.

No exemption will be granted for the land upon which qualified buildings or building additions are located, existing buildings already built, or any property rented or leased to outside interests by other than a not-for-profit local economic development corporation. No exemption will be granted for buildings or building additions for which a building permit has been applied or construction commenced before the date said exemption is granted. No exemption will be granted for any existing tangible personal property located in the City of Salina nor any newly acquired tangible personal property ordered or purchased prior to the date said exemption is granted.

In the event a not-for-profit local economic development corporation constructs a new building for an unidentified occupant, the minimum job requirement shall be waived. No tax exemption shall be granted until occupancy by an eligible business activity and project completion.

Section 5. Amount and term.

- A. Base exemption. An exemption may be granted for 25% of the property taxes due for projects which involve new capital investment and which create new permanent, full-time jobs as follows: \$100,000 of investment and 3 new jobs; \$200,000 of investment and 2 new jobs; or \$300,000 of investment and 1 new job.
- B. Incentive exemption. Special consideration will be given to increasing the amount of tax exemption up to 100% based on the following scale regarding the amount of capital investment and number of new employees:
  1. An additional tax exemption of 2.0% for each additional new job (FTE) above the base minimum.
  2. An additional tax exemption for each additional \$15,000 of investment above the base minimum as follows: \$100,000 to \$1 million - 0.3%; between \$1 million and \$2 million - 0.2%; above \$2 million - 0.1%.

- C. Descending scale. The calculated total tax exemption will be applied according to the following scale:

Years 1 thru 5	-	100%
Years 6 thru 10	-	50%

- D. Term of exemption. No tax exemption shall be in effect for more than 10 years after the calendar year in which the business commences operations or completes an expansion. Any applicant receiving a tax exemption shall be required to make payments in lieu of taxes equal to the amount of property tax not exempted. Said payments shall be payable to the Saline County Treasurer for distribution, under the provisions 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. This apportionment shall be based on the relative amount of taxes levied by each of the applicable taxing subdivisions. Any tax exemption granted shall not affect the liability of any special assessments levied or to be levied against such property. No tax exemption granted shall be continued if the business ceases operations or ceases to be engaged in eligible business activities.
- E. Location premium. Businesses shall be encouraged to locate and/or expand within special redevelopment areas of the City's enterprise zone. To foster such action, businesses may receive a premium equal to fifty percent (50%) of and which shall be added to the calculated tax exemption [e.g. forty percent (40%) calculated tax exemption plus twenty percent (20%) premium equals sixty percent (60%) total exemption for years one (1) through five (5).] Special redevelopment areas shall be designated by separate resolution of the Board of City Commissioners.

Section 6. Preliminary review. Prior to submittal of a formal application, a business may inquire as to eligibility for tax exemption and the anticipated amount based on preliminary employment and capital investment figures. The business shall complete a pre-application form and submit same to the City Manager's office. City staff will review the information submitted and respond to the business regarding apparent eligibility and potential amount of tax exemption if granted. The response from city staff shall in no way represent definitive findings or be seen as an expression of intent or obligation of the Board of City Commissioners to favorably consider or approve a formal request for tax exemption. The pre-application form and staff response shall be deemed to be proprietary business information and shall be kept confidential.

Section 7. Formal application.

- A. Filing fee. An application for a tax exemption shall be accompanied by a non-refundable filing fee of \$250.00. Said fee shall be used to defray expenses incurred in processing and evaluating the application.
- B. Application contents. The City will not consider the granting of any tax exemption unless the business submits a full and complete application and provides such additional information as may reasonably be requested. The application shall contain the following:
1. Name and address of business, principal owners and officers, contact person and telephone number.
  2. A general description of the nature of the business, business history and experience, and a list of principal competition in the local market.

3. Name and address of the owner of the land and building occupied or to be occupied by the business.
  4. A general description of the proposed building project or improvements, including estimated capital costs, plus the amount or percentage of tax exemption being requested.
  5. A site plan of the proposed building project or improvements.
  6. If an existing business, average total monthly employment figures for the past twelve months.
  7. Number of new jobs (FTE) to be created by type or position.
  8. A statement explaining why the requested tax exemption is a critical factor in determining whether the proposed project is to be completed.
- C. Review procedures. Each application for tax exemption shall generally follow the following procedures:
1. The business submits a completed application and pays the required filing fee to the City Clerk.
  2. The City Clerk provides notification of the application for tax exemption to the Board of City Commissioners.
  3. The Board of City Commissioners refers the application to the City Manager for an analysis of the costs and benefits of such exemption and authorizes a public hearing to be scheduled.
  4. The City Clerk publishes required notice of the hearing and sends written notice of the hearing to the Saline County Commission and U.S.D. 305.
  5. The Board of City Commissioners reviews the analysis of costs and benefits and receives comments from the applicant, affected taxing districts, and the general public. At the conclusion of the hearing, the Board of City commissioners will take formal action on the application. Approval shall be in the form of a resolution.
  6. If approved, the business will need to file an exemption claim form with the County Appraiser as required by state statute. Such claim form shall be signed by the City Clerk.
- D. Terms and conditions. In granting a tax exemption, the Board of City Commissioners may impose any terms or conditions as deemed necessary to fulfill the purpose and intent of this policy.

Section 8. Completion review. Each tax exemption granted shall be subject to a review of project completion. This review shall be for the purpose of determining if the economic benefits were achieved, if the percent and term of exemption remain valid, and if the business is in compliance with any established terms or conditions. In the event the capital investment project has not been completed, the review status shall be considered to be in-progress and no tax exemption shall be granted. If the capital investment project is complete but the employment goal has not been reached and hiring remains active, the applicant business may choose to be considered in-progress and receive no tax exemption or be considered partially complete and receive a one-time prorated tax exemption for the subject year. A project shall be considered complete if more than 18 months have elapsed since initial approval of the tax exemption resolution.

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- A. Filing date and fee. The application for completion review shall be filed on an annual basis no later than January 15 of each year until the project has been completed. The filing fee shall be \$125.00 and is non-refundable. There shall be no filing fee for an in-progress review.
  - B. Business information. The recipient business shall provide information pertaining to the number of full-time permanent jobs created as a result of the project, the actual amount of capital invested in the project, the ongoing nature of business activities, and any other data as may reasonably be requested.
  - C. Review process. The City Manager will review the application and submit a report to the Board of City Commissioners. The Board of City Commissioners will consider the application and staff report at a public hearing, advance notice of which shall be as provided for the hearing on the original application. Said hearing and decision on whether or not to grant a certification of compliance for the tax exemption shall occur no later than February 15 of each year.
  - D. Certification. If certification of compliance for the tax exemption is granted, the exemption claim form filed by the property owner with the County Appraiser shall include a written statement, signed by the City Clerk, that the property continues to meet all terms and conditions established as a condition of granting the exemption.
  - E. Revocation. The Board of City Commissioners reserves the right to revoke a granted tax exemption due to submittal of a fraudulent application, failure to submit the completion review application and supporting information, failure to meet qualifying criteria, or failure to comply with established terms or conditions. Failure to produce the stated economic benefits will result in a reduction or loss of tax exemption.

Section 9. Monitoring review. Following receipt of certification of compliance, each tax exemption granted shall be subject to an annual monitoring review of business status. This review shall be for the purpose of determining if the business continues to meet eligibility criteria and remains in compliance with any established terms or conditions.

- A. Filing date and fee. The application for monitoring review shall be filed on an annual basis no later than January 15 of each year for the term of the exemption. The filing fee shall be \$50.00 and is non-refundable.
- B. Business information. The recipient business shall provide information pertaining to the ongoing nature of business activities, average total monthly employment, any change in majority ownership of the business and any other data as may reasonably be requested.
- C. Review process. The City Manager will review the application and, unless ineligibility or non-compliance is evident, shall direct the City Clerk to issue a certificate of compliance. In the alternative, the City Manager shall submit a report to the Board of City Commissioners for their determination of compliance.

D. Certification. If compliance is deemed to exist, the exemption claim form filed by the property owner with the County Appraiser shall include a written statement, signed by the City Clerk, that the property continues to meet all terms and conditions established as a condition of granting the exemption.

E. Revocation. The Board of City Commissioners reserves the right to revoke a granted tax exemption due to submittal of a fraudulent application, failure to submit the monitoring review application and supporting information, failure to meet qualifying criteria, or failure to comply with established terms or conditions.

Section 10. Confidentiality. All applications and records pertaining to a formal tax exemption request shall be subject to the provisions of the Kansas Open Records Act.

Section 11. Industrial Revenue Bonds. The criteria, terms and provisions of this policy shall serve as a guideline for tax exemption requests associated with Industrial Revenue Bonds for which resolutions of intent have been applied for after the effective date of this policy.

Section 12. Amendments. The Board of City Commissioners reserves the right to amend, revoke, change or otherwise modify this policy from time to time to promote the best interests of the City of Salina.

Section 13. Effective date. This policy shall apply to all applications for tax exemption submitted on or after the date of adoption.

Adopted by the Board of City Commissioners and signed by the Mayor this 14th day of January, 1991.

  
Robert E. Frank, Mayor

[SEAL]

ATTEST:

  
Jacqueline Shiever, City Clerk