

RESOLUTION NO. 2019 - 06

A RESOLUTION ADOPTING A POLICY FOR THE GRANTING OF EXEMPTIONS FROM *AD VALOREM* TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES .

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

WHEREAS, the Hodgeman County Board of Commissioners has determined that, under certain circumstances, the granting of property tax exemptions can be an effective economic development tool.

THEREFORE, BE IT RESOLVED THE FOLLOWING WILL BE THE COUNTY'S POLICY FOR THE GRANTING OF EXEMPTIONS FROM *AD VALOREM* TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES:

Section 1. Purpose

The purpose of these provisions is to establish the official policies and procedures of the Hodgeman County Board of Commissioners (“Board of Commissioners”) for the granting of property tax exemption for real and tangible personal property used for qualified economic development purposed under Section 13 of Article 11 of the Kansas Constitution.

Section 2. Authority and Discretion

The Board of Commissioners may exempt from *ad valorem* taxation certain property used for economic development purposes for a maximum of ten (10) years. The Board of Commissioners is under no obligation to approve any requested exemption and reserves the right to deviate from the policies and procedures contained herein if circumstances exist to warrant such deviation. The Board of Commissioners may (1) require the owner(s) of any property for which an exemption is requested to provide certain information, (2) condition the granting of an exemption to an agreement for the payment in lieu charges for taxes under the provisions of K.S.A. 12-147 and 12-148, and (3) require the payment of an initial application fee and annual renewal fees reasonably necessary to cover the costs of administration of these policies and procedures.

Section 3. Preliminary Review

Prior to submittal of an application for exemption, an applicant may inquire as to eligibility for tax exemption and the anticipated amount of such tax exemption based upon preliminary employment and/or capital investment figures. In order to obtain a preliminary review, the applicant must contact the Hodgeman County Economic Development Director ("Director") and submit a pre-application. The Director, in conjunction with the County Clerk, County Appraiser, and County Attorney will review the information submitted and respond to the applicant regarding potential eligibility and the potential amount of eligible tax exemption. The response from the County staff shall in no way represent definite findings or be seen as an expression of intent or obligation of the County Commissioners to favorably consider or approve a formal request for tax exemption. The pre-application information and County staff response will be considered proprietary business information and will be considered confidential.

Section 4. Formal Application Procedures

- a. A request to grant a tax exemption by the Board of County Commissioners is initiated by submitting a completed application ("Exhibit A") to the Director. This application must be accompanied by a non-refundable fee of One Thousand Dollars (\$1,000.00).
- b. The Director will complete a Cost Benefit Analysis with information obtained through the application and any other information needed to complete the analysis.
- c. The Director's analysis and staff review and recommendation will be forwarded to the Board of County Commissioners.
- d. If the Board of County Commissioners desires to consider the application further, the governing body shall be required to conduct a public hearing on granting of such exemption. Notice of the public hearing will be published at least seven (7) days prior to the hearing in the official City newspaper. Said notice will state the purpose, time and place of the public hearing. In addition to such publication notice the County Clerk shall notify the Board of Education of U.S.D. No. 227 and other governmental taxing units which might be affected by a property tax exemption and solicit their input as a part of the decision making process.
- e. Official action on the application by the Board of County Commissioners will take place at a public meeting within thirty (30) days following the closing of said public hearing. Prior to the taking of official action on the application, the Board of County Commissioners will review the analysis of the costs and benefits as prepared, will receive the recommendation of the review committee, and will receive comments from the applicant, the effected taxing districts, and the general public. The approval of a request for exemption will be in the form of a Resolution, duly adopted by the Board of County Commissioners

- f. If an application is approved, a copy of the application and the ordinance approving the application will be filed with the County Clerk by the applicant.
- g. The applicant will be responsible for any and all subsequent filing with the State Board of Tax Appeals or other governing state agency, and for the securing of final tax exemption by the State Board of Tax Appeals. The County will cooperate with the applicant in providing information in any proceedings before the State Board of Tax Appeals concerning such exemption. A separate fee will be charged by the State for this process.
- h. In granting a tax exemption, the Board of County Commissioners may impose any terms or conditions that it deems necessary to fulfill the purpose and intent of this policy.

Section 6. Criteria for Granting Exemption

Each application for property tax exemption shall be evaluated in accordance with the following criteria:

- a. *Costs and Benefits Analysis.* The costs and benefits analysis by the Economic Development Director will show a positive benefit to the County and other taxing entities.
- b. *Eligible Businesses.* A tax exemption will be granted 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.
- c. *Eligible Property.* The Board of County Commissioners may exempt from *ad valorem* taxation all or any portion of the appraised valuation of:
 - 1. All buildings together with the land upon which such buildings are located and all tangible property associated therewith used exclusively by an eligible business which commences operations within the County (“County” being defined as any property located outside of any incorporated City Limits within Hodgeman County) after the effective date of this policy; and
 - 2. All buildings, or added improvements to buildings constructed or made after the effective date of this policy, together with the land upon which such buildings or added improvements are located, and all tangible personal

property associated therewith used exclusively by an eligible business which is necessary to facilitate the expansion of any such existing business, if, as a result of such expansion, new employment is created.

3. No exemption will be granted for tangible personal property unless a factual determination has been made by the Board of County Commissioners that such an exemption is required to retain or increase jobs in the State of Kansas.
4. No exemption for real property or tangible personal property will be granted unless the eligible business has made application with the County for such exemption prior to such business' occupancy of a new building or an improvement to an existing building, or its use of any tangible property associated therewith.

Section 7. Term and Amount of Exemption

- a. Generally, tax exemption will not exceed fifty-five percent (55%) over the ten (10) year period, with the preferred method being a declining schedule with one hundred percent (100%) the first year and declining ten percent (10%) each year thereafter.
- b. Any *ad valorem* tax exemption granted pursuant to subsection will be in effect for not more than ten (10) calendar years after the calendar year in which the business commences its operations or the calendar year in which expansion of an existing business is completed, as the case requires.
- c. Payment in Lieu of Taxes: An eligible business receiving a tax exemption pursuant to this policy may be required to make a minimum payment in lieu of taxes 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, including either buildings together with land or land only, prior to the construction of new buildings or added improvements to buildings on such property or prior to the acquisition of property by the new business. The purpose of this minimum payment in lieu of tax is to assure that taxing jurisdictions effected by the exemption will not receive less tax revenue from the exempted property than was received prior to the exemption. The minimum payment in lieu of taxes shall be payable to the 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.

In addition to the minimum payment as set forth above, an eligible business may also be required to make such payments in lieu of taxes as may be required to offset partially or in total the increase in cost to a taxing subdivision resulting directly from the new or expanded exempt business.

- d. Special Assessments: Any tax exemption granted for real property under this policy will not affect the liability of such property for any special assessments levied or to be levied in the future against such property.

Section 8. Annual Review. Each year an applicant is required to submit to the Hodgeman County Appraiser's Office a certificate that states the company continues to meet the criteria for the tax exemption.

Section 9. Revocation of Exemption. The County Commissioners reserves the right to revoke a granted tax exemption due to a failure in any of the criteria for the granting of the original exemption, for the failure of the business to fully comply in a timely fashion with any terms and conditions of the original exemption (including failure to make any in lieu of taxes payments in a timely fashion), for a fraudulent submission of an application, for failure to submit the annual application and necessary information, or for a direct showing of bad faith by the recipient.

Section 10. Jurisdiction. It shall be the policy of the County to consider applications for tax exemption only as to property located *outside* of the city limits of the City of Jetmore and City of Hanston, furthermore the County will consult and cooperate with either city jurisdiction if an application relates to a business located or to be located within three (3) miles of either City limit.

Section 11. Policy Review and Modification. This policy may be reviewed at any time by the Board of County Commissioners. The Commissioners reserves the right to amend, revoke, or otherwise modify the policy for the best interest of the County; provided, however, that any modification or revocation of this policy shall not affect any existing tax exemption previously granted under the terms of this policy.

ADOPTED this 31st day of May, 2019

HODGEMAN COUNTY, KANSAS

Marsha G. Cury
Emmett D. Custora
Michael A. MacSain
R. J. [Signature]

ATTEST: [Signature]
County Clerk

