

RESOLUTION NO. 2019-018

A RESOLUTION ESTABLISHING A TAX ABATEMENT POLICY AND PROCEDURE FOR THE CITY OF PAOLA, KANSAS.

WHEREAS, the City of Paola, Kansas (the “City”) recognizes that it is essential to stimulate economic growth and development of new commercial enterprise in order to provide services, employment and tax revenues for the benefit of the community; and

WHEREAS, the economic development program goals of the City include enhancement and support of new development, creation and quality of employment opportunities and diversification of the local economy; and

WHEREAS, to meet these economic development goals, the City recognizes the need to encourage the redevelopment of property located in the City by creating policies and guidelines for consideration of proposals that may be presented to the City by private developers requesting tax abatement assistance; and

WHEREAS, by adopting this policy the City intends to set forth a flexible framework for evaluating requests for tax abatement assistance; and

WHEREAS, tax abatement is an important economic development tool to stimulate the local economy and improve the quality of life for its citizens; and

WHEREAS, all requests for tax abatement must be carefully evaluated by the City because the character of tax revenues generated by different types of development can vary widely, along with impact on other taxing jurisdictions in the Paola community; and

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF PAOLA, KANSAS AS FOLLOWS:

CITY OF PAOLA TAX ABATEMENT POLICY

- (A) **Eligibility.** Only those firms which qualify under Kansas law will be eligible for an abatement. Abatements for a business that would compete directly with existing businesses will not be encouraged unless the competing business has received or been offered similar incentives, or unless there is an overriding benefit to the City as a whole.
- (B) **Review Criteria.** The following criteria and factors shall be used in evaluating Applications for tax abatements:
 - 1. Net benefit to the taxing districts as shown in the Cost-Benefit Analysis;
 - 2. Quality job creation and wages;
 - 3. Capital investment;
 - 4. Diversification of the local economy;
 - 5. The extent to which the Project would meet an identified need in the City.
- (C) **Transfers.** No abatement granted by the City shall be transferred as a result of change in ownership of the exempted property. Any new owner shall file a new Application for

abatement. Further, the City shall be notified by the business of any substantive change in the use of the tax exempt property.

- (D) **Special Assessments.** Special assessments are not eligible for exemption under this policy.
- (E) **Finance Team.** Each Tax Abatement Application submitted to the City will be evaluated on its own merits, and an evaluation of the proposal will be performed by the Economic Development Finance Team (comprised of the City Manager, city staff appointed by the City Manager, the City's Financial Advisor, the City's Bond Counsel, and a minimum of four community representatives appointed by the City Manager) and then referred to the Governing Body for review.
- (F) **Cost-Benefit Analysis.** The Finance Review Team will complete a cost-benefit analysis. This analysis will provide the economic impact upon the impacted taxing districts taking into account the public costs (tax abatement and other) and the public benefits (property tax base, sales tax base and other spin-off benefits). Generally, such a cost-benefit analysis will examine a ten-year timeframe, however such timeframe may be shorter or longer depending upon the term requested and the term of any other economic incentives contemplated for the Applicant.
- (G) **Notice to Taxing Jurisdictions/Public Hearing.** Prior to the granting of any tax abatement, the City Clerk shall notify in writing the impacted taxing districts about the public hearing and the proposed abatement at least seven days prior to the public hearing but as early as possible, and provide the taxing jurisdictions with a copy of the cost-benefit analysis and background materials.

The impacted taxing districts will be encouraged to provide input to the City regarding the impact of the proposed abatement on the property tax base as well as other issues.
- (H) **Resolution and Performance Provisions.** After the public hearing, the Governing Body may adopt a resolution specifying the annual abatement and the length of the abatement. The resolution will require two readings.

The resolution shall outline annual job creation and investment targets which the Applicant must meet for all or a portion of the abatement to continue. The resolution shall also outline the method for decreasing the abatement if the annual job creation targets are not met.
- (I) **Payment in Lieu of Taxes (PILOT) Agreement.** In order to grant an Abatement, a PILOT Agreement between the City and the Applicant will be required. The PILOT Agreement is the mechanism whereby the City establishes the level of Abatement (by setting the payment in lieu of taxes) and any performance standards (e.g. levels of payroll, investment and numbers of employees). The PILOT Agreement will establish a PILOT payment required of the business on an annual basis. The PILOT payment usually is a certain percentage of the taxes the Applicant would have paid without the Abatement.

The PILOT Agreement may include a clawback provision as addressed below.
- (J) **Clawback Provisions.** A clawback provision allows the Governing Body to modify or eliminate the tax exemption if they find that the business is not in compliance with the provisions of the PILOT. The tax exemption may be modified or eliminated as the Governing Body deems appropriate, and the County Appraiser and Board of Tax Appeals shall be notified of such action. Provisions requiring specified performance as a condition for granting and maintaining the Abatement may be considered as part of the agreement; and the time within which construction on the abated property must begin and be completed.
- (K) **Submission of Application to the Kansas Board of Tax Appeals.** After the Applicant has completed and submitted all necessary documentation to the City Clerk, the City Clerk will forward all necessary documentation to the County Appraiser's Office, which will be filed with the Kansas Board of Tax Appeals. The Governing Body's decision to grant an Abatement is subject to the final determination of the Kansas Board of Tax Appeals.

- (L) **Annual Certification.** After the first year of the abatement and by February 1 each year thereafter, the Finance Team will review the abatement to certify that use of the property is still in accordance with Kansas law and that all other provisions of the abatement are being met. The Applicant will be required to complete and submit all necessary documentation to the City Clerk for annual submission to the County Appraiser's Office and the Kansas Board of Tax Appeals. It is the Applicant's obligation to see that the appropriate annual information is filed for the abatement to continue.
- (M) **Annual Report to the Governing Body.** Prior to December 31 of each calendar year, the City staff shall prepare an annual report for the Governing Body to review. Such report will include the status of all outstanding tax abatements and achievement of job creation targets.
- (N) **Documents.** All documents related to tax abatements, including the annual certifications, will be kept on file with the City Clerk.
- (O) **Duration and Amount of Abatement.** Application of the criteria set forth below will be considered in determining whether abatement should be awarded, and, if so, the length and amount of abatement granted. The following charts shall serve as a guide for the number of years for abatement and the amount of the abatement.

Amount of Capital Improvements for New Businesses	Years Eligible for Abatement
\$1,000,000 - \$1,999,999	5
\$2,000,000 - \$2,999,999	6
\$3,000,000 - \$3,999,999	7
\$4,000,000 - \$4,999,999	8
\$5,000,000 plus	10

Amount of Capital Improvements for Existing Businesses	Years Eligible for Abatement
\$250,000 - \$999,999	5
\$1,000,000 - \$1,999,999	7
\$2,000,000 - \$2,999,999	8
\$3,000,000 plus	10

% of Abatement for New Business	Number of Net New Employees to Paola	% of County Average Salary
25%	10 – 20	101% - 150%
50%	21 – 50	101% - 150%
	10 – 20	151% - 200%
75%	51 or more	101% - 150%
	21 or more	151% - 200%
	10 – 20	201% or more
100%	21 or more	201% or more

% of Abatement for Existing Business	Number of Net New Employees to Paola	% of State Average Salary
25%	5 - 10	101% - 150%
50%	10 - 20	101% - 150%
	5 - 10	151% - 200%
75%	21 plus	101% - 150%
	11 - 21	151% - 200%

	5 - 10	201% or more
100%	11 or more	201% or more

(P) **Fees:**

1. Applicants shall pay a non-refundable Constitutional Tax Abatement application fee of five hundred dollars (\$500.00) to be paid with the submission of application.
2. The City may at its discretion require the applicant to pay an administration service fee to the City. The fee, if required, shall be in addition to the application fee and shall be applied to the reimbursement of the City's administrative costs for the approved Tax Abatement. The administration costs but shall not exceed Two Thousand-Five Hundred Dollars (\$2,500) in any one year.
3. The City may waive or reduce the fees established by this resolution if it is determined to be in the City's best interests.

(Q) **Other Conditions:**

1. The City reserves the right to modify or waive any or all of these policy provisions in accordance with the approved project.
2. The Governing Body reserves the right to deviate from any policy, but not any procedure set forth in this resolution or any other procedural requirements of state law, when it considers such action to be of exceptional benefit to the City or extraordinary circumstances prevail that are in the best interests of the City.

ADOPTED AND APPROVED by the governing body of the City of Paola, Kansas on December 10, 2019.

Artie Stuteville, Mayor

ATTEST:

Stephanie Marler, City Clerk