



City of Lawrence

DATE APPROVED:

Deleted: DRAFT- 2//09

City of Lawrence Economic Development Goals, Process and Procedures

INTRODUCTION

The purpose of this document is to establish the official policy and procedures of the City for the granting of economic development incentives, including cash incentives and exclusive infrastructure assistance associated with projects within the City of Lawrence.

GENERAL OBJECTIVE.

In Horizons 2020, the City identifies three goals for economic development: job growth in excess of population growth; increasing the share of the tax base coming from non-residential growth; and increasing career opportunities by attracting high-skilled jobs in expanding industries.

Various economic incentives are available under Kansas law to help municipalities achieve their public objectives. This ordinance establishes the policy, procedures and requirements to govern the fair, effective and judicious use of these incentives by the City in order to help meet its economic development goals.

Because of Lawrence’s assets and the desire of area residents to plan for the future and retain a community that is different from other growing suburban areas, economic incentives may not be offered to every firm that is eligible under state statutes. Instead, incentives will be targeted toward businesses meeting the objectives defined below. (Ord. 7706)

ECONOMIC DEVELOPMENT OBJECTIVES.

The City works in cooperation with Douglas County and the Lawrence Chamber of Commerce to achieve the general objectives outlined in the section above. This partnership enables the community to maximize its resources and to develop a consensus regarding the kind of economic development that best advances the interests of the entire community. (Ord. 7706)

All of the partners in this effort share a commitment to:

- encourage existing industry to expand
- assist new business start-ups
- recruit new companies from out-of-state and internationally
- encourage high technology and research based-businesses
- encourage training and development of Lawrence area employees

Comment [CoL1]: Eliminated Table of Contents- no ToC in other City Codes.

Deleted: Table of Contents¶

Section	Page
¶	
¶	
Introduction	3¶
¶	
General Objective	3¶
¶	
Economic Development Objectives	3¶
¶	
Economic Development Incentives	4¶
¶	
Application Procedures	5¶
¶	
Benefit/Cost Model	8¶
¶	
Performance Provisions	9¶
¶	
Accountability	9¶
¶	
¶	

- encourage the location and retention of businesses which are good “corporate citizens” that will add to the quality of life in Lawrence through their leadership and support of local civic and philanthropic organizations.

While it is the new companies from out-of-state that typically generate the most publicity, it is the policy of the City, County, and the Chamber to place a high priority on the retention and expansion of existing businesses.

The City’s role in this economic development partnership involves:

- providing the land, zoning and infrastructure that are required to create new jobs and new investment;
- providing policies, processes and procedures for clear standards and timely reviews of applications; and
- providing the personal assistance and in some cases the incentives necessary to achieve the objectives set forth in this document.

All partners believe that Lawrence and Douglas County should be selective as to the kinds of businesses that are recruited and assisted. Horizons 2020 specifies that businesses within the following industries should particularly be a focus of economic development efforts:

- Life Sciences/Research;
- Information Technology;
- Aviation and Aerospace;
- Value-added Agriculture; and
- Light Manufacturing and Distribution.

ECONOMIC DEVELOPMENT INCENTIVES:

When appropriate, the City may utilize incentives in order to achieve its economic development goals. One or more incentives may be utilized, depending on the application. These include, but are not necessarily limited to, the following:

- **Loans/Grants:** Provide capital to existing and new businesses for projects related to new growth and expansion, providing job training, assisting with business relocation expenses, and other types of assistance which further the community’s economic development goals.
- **Infrastructure:** Provide infrastructure improvements related to needs of businesses or to assist in making property useable and available for businesses or other designated economic development activities (i.e. infrastructure for industrial property, etc.)
- **Property Tax Abatement:** The City may utilize property tax abatements to spur investments. ↓

Comment [CoL2]: Tax abatement policy now included in this ordinance.

Deleted: The City has a separate policy regarding providing tax abatements

- **Tax Increment Financing:** The City may judiciously utilize Tax Increment Financing (TIF) for the purpose of encouraging projects with an emphasis on redevelopment activities. The City has a separate policy regarding tax increment financing.
- **Transportation Development Districts:** The City may utilize transportation development districts to encourage quality transportation-related infrastructure. The City has a separate policy regarding transportation development districts.

APPLICATION PROCEDURES:

1. Applicant picks up a blank Application form at City Hall (City Manager's Office) or the Application is downloaded from the Internet. Applicant's business/project must be located in the City of Lawrence or near the City of Lawrence such that there will be direct economic benefit to the City.

2. An Application must include a project plan that:

- summarizes the project;
- demonstrates the financial and professional capability to complete the project;
- proposes a timeline for project completion; and
- provides a summary of project benefits to and assistance requested from the City.

4. When the Application (with an attached Project Plan) is completed, it will be submitted to City Hall (City Manager's Office) along with any application fees that may be required for the particular incentive sought. Applicant may seek technical assistance in ensuring the application is complete from City Staff, the Chamber of Commerce, the Small Business Development Center, or others.

5. City Staff will facilitate the review of all applications before they are considered by the City Commission. In preparing such review, City Staff will utilize the City's resources or other professional assistance as deemed appropriate by the City Manager.

In cases in which sensitive financial information needs to be shared to evaluate an application, the City will utilize a third party to review such information and write a report that summarizes any major concerns with the ability of the applicant to complete the project. The third party will also make recommendations regarding appropriate provisions the City may consider to secure its investment.

Deleted: most

The application review will be summarized in writing and presented no later than the time the application is presented to the City Commission. This review may include but not be limited to the following:

- Verification that the applicant is eligible for the incentive sought under the Kansas Constitution, City or County ordinances or any other applicable laws
- Phone calls to listed references for banking, other financing, major suppliers, and major customers
- Oral verification of major indebtedness with lender/mortgage holders

Comment [CoL3]: Added because this was in abatement policy, wanted to make it a "governing" policy.

- D. Review of financial documents for reasonableness
- E. cursory reconciliation of future year cash flow projections with current cash status, requested monies, etc.
- F. Correlation with other requests from the City (subsidized land costs, property tax abatements, City industrial revenue bonds, utility improvements)
- G. Adequacy of performance provisions
- H. Any significant positive or negative aspects of the application
- I. Benefit/cost analysis (as prepared by City staff)

Results of this review will be shared with the applicant as soon as possible to ensure accuracy of the application before its official presentation to the City Commission. This review will not be construed as a "screening" procedure. Each applicant has the privilege to present its application intact and unchanged to the City Commission.

6. The City Manager will provide the information concerning the Application to the members of the City Commission for study. Copies will also be provided to professional staff.

7. The City Manager will determine when the Application will be considered for public hearings with a Review Committee (as established in Section X-XXXX, below) and the City Commission.

Deleted: at a

Deleted: Meeting

8. Upon completion of management review, the Review Committee shall conduct a public meeting to hear the proposal from the applicant, receive comments from the public, and seek additional information as necessary. Comments, recommendations, and additional information from the applicant shall be forwarded to the City Commission for consideration along with the original application.

Comment [CoL4]: Purpose is to ensure two public meetings. Need to incorporate other entities for considering incentives.

9. The City Commission will then consider the application during a public meeting. At this meeting, the Commission may consider the application and make a determination. Additional City Commission meetings may be necessary. The City Commission retains the prerogative of rejecting any Application.

Deleted: Upon review by City Staff and the City Manager, and with the consent of the Applicant, a review committee (City Manager or his/her designee, Economic Development staff of the Lawrence Chamber of Commerce and/or the Lawrence-Douglas County Bioscience Authority) will analyze the proposal and have an opportunity to recommend support if it so desires. If appropriate, a meeting may be held with the applicant to seek additional information or clarification concerning the Application.

Deleted: minimum of two

Deleted: s

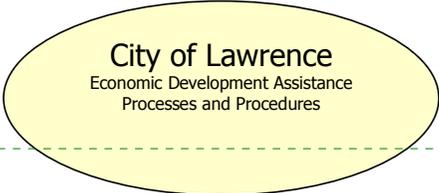
Deleted: At the first City Commission meeting, the Commission will hear the proposal and will consider a motion to determine whether or not to advance the application for formal consideration at a second City Commission Meeting.

Deleted: the

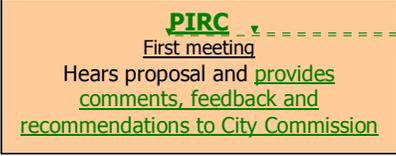
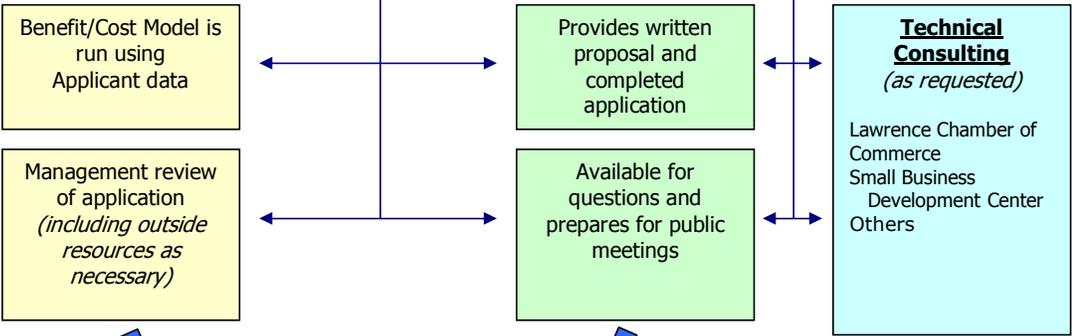
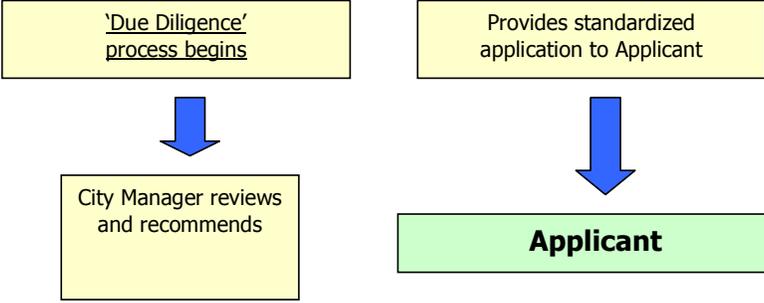
Deleted: second City Commission

10. If the City Commission has approved an Application, it is then turned over to the City Manager for implementation and administration.

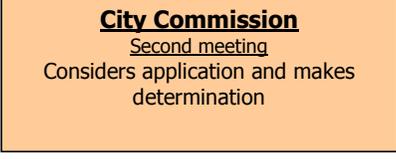
Application Process Flow Chart



Comment [CoL5]: Made PIRC first public meeting. Need to include County, public, others in decision making must be balanced against ability to expedite consideration- eg not have three or more meetings required.



Deleted: City Commission
Deleted: considers motion to advance application



Two public meetings at minimum*

* Additional City Commission meetings may be necessary

BENEFIT/COST MODEL:

The City, in determining whether certain incentives should be granted; shall conduct a benefit/cost analysis which will consider various factors including, but not limited to, the following:

- the increase in appraised valuation of the property;
- the sales and income tax revenue which may result;
- the number of new jobs, the earnings and the benefits that will be provided;
- additional jobs created through secondary or "multiplier" effects, as well as the associated tax revenues from these jobs and residents;
- the capital expenditures that local government will need to make to expand public services, for example parks and police stations, to both the company and new residents;
- the operating expenditures that local government will need to make on a regular basis for public services, for example fire protection and street maintenance, to both the company and new residents;
- the expenditures by the local school district to provide the facilities and to educate the students of the new residents associated with the company;
- any expenditures by the State of Kansas, such as per-student funding in local school systems, created by the firm and new residents;
- other public expenditures associated with attracting the new company.

In addition to the results of the cost-benefit analysis, the following factors may also be considered:

- the degree to which the business improves the diversification of the economy;
- the kinds of jobs created in relation to the types of skills available from the local labor market;
- 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 the local economy;
- the potential of the business for future expansion and additional job creation;
- the beneficial impacts the business may have by creating other new jobs and businesses, including the utilization of local products or other materials and substances in manufacturing and creation of niche businesses, such as those in the bioscience area;
- 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;
- the benefits and impacts the firm has on environmental quality both to the region or, through its products, nationally, as well as any efforts the firm makes to promote sustainability or mitigate environmental harm, and

- 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.

PERFORMANCE PROVISIONS:

Each company that receives an incentive from the City will be held accountable to certain performance provisions. These provisions will be included in a performance agreement between the company receiving the incentive and the City. Each performance agreement shall contain annual targets for capital investment, job creation and wage structure. The average of these three targets will be used to create an overall annual percentage of compliance for that year. These annual targets will then determine the amount of annual incentives that the company will receive for that year. Substantial compliance and incentives received will be determined by the following chart:

Deleted: funded through

Deleted: , based upon substantial compliance with anticipated capital investment, job creation and wage structure

Deleted: will be developed, utilizing information from the company's funding application, which will,

Deleted: hen

Deleted: averaged together,

% compliance with annual target	Amount of incentive to be received
90-100%	100%
80-89%	85%
70-79%	75%
Below 70%	No incentive

Depending upon the funding mechanism utilized and the application, additional performance criteria may be utilized and included in the compliance calculation.

Substantial compliance will be evaluated annually. Failure to fully meet compliance requirements in any one year will result in a reduction in incentives only for the following year. In addition, any firm that does not provide the information required in its annual report may be subject to incentive reductions for the current year.

City Staff shall notify the firm of any adverse finding prior to an incentive reduction being taken. The firm shall have the privilege of appealing an adverse finding to the City Commission as set forth in Section X-XXX below. The City Commission may override an incentive reduction determination for that year with a majority vote.

Regardless of the funding mechanism used, the City should be mindful to secure its assets and ensure satisfactory performance by the Applicant. A number of tools can be utilized by the City, and be included in the performance agreement, in order to accomplish this.

PUBLIC INCENTIVES REVIEW COMMITTEE

The Public Incentives Review Committee (PIRC) has been established to review and comment about City incentives under this policy. Additionally, the committee is charged with annual review and monitoring of compliance for all cashlike incentives issued under this ordinance. The purpose of the Public Incentives Review Committee is to:

Deleted: shall be

- Ensure that the public, the County, and the School District have an opportunity to participate in the application and review procedures for public incentives,

- Receive and review requests for all incentives requested by applicants,
- Gather and review such additional information as may be deemed necessary to determine if the company meets the target objectives set forth in this policy,
- Make recommendations on the application for consideration by the City Commission, especially as related to the factors listed in Section X-XXXX that are in addition to the benefit-cost model,
- Review the City’s yearly incentive report and compliance with performance agreements, and
- Review other economic development related matters upon the request of the City Commission.

Comment [CoL6]: Added to provide an opportunity for broader role of PIRC.

The Public Incentives Review Committee shall be composed of:

- A. the Mayor, or the Mayor’s designee, who shall serve as chair,
- B. another member of the City Commission appointed by the Mayor with the consent of the City Commission,
- C. a member of the Douglas County Commission, as appointed by the County Commission,
- D. a member of the Lawrence Public Schools U.S.D. 497 School Board or a School Board representative, appointed by the School Board,
- E. a professional financial analyst appointed by the Mayor and City Commission for a three year term
- F. the Chair of the Lawrence/Douglas County Economic Development Board,
- G. a resident of Lawrence appointed for a three year term by the Mayor and the City Commission, from a list of not less than three people chosen by the Sustainability Advisory Board (SAB), and
- H. a resident of Lawrence appointed for a three year term by the Mayor and the City Commission.

Formatted: Bullets and Numbering

City, County, and School District staff shall provide technical and policy advice to the Committee. The Committee shall meet on call of the Mayor.

Public Incentives Review Committee records, including applications for tax exemptions, 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. 45-221, but shall be available for public inspection when otherwise required by law. The Committee is authorized to issue administrative letters of finding which shall not be binding on the City Commission, and may be superseded by any action by the City Commission.

ACCOUNTABILITY:

Annually, City Staff will be responsible for reviewing the performance of each recipient of funds for the previous year. The purpose of this review is to check for compliance with the performance agreement and to gather information regarding cumulative job creation, wage structure, and other such information necessary to gauge the performance of the company. The accountability review may include a site visit.

Deleted: to review

Deleted: such

The fund recipient will be required to certify, to the City, compliance with the performance agreement's wage, capital, and job requirements for the preceding year. For the purposes of a property tax abatement, this compliance report shall include information showing how the wage floor, average wages, and health insurance requirements as set forth in Section X-XXXX have been met. Such certification will be signed and returned to the City by March 1 of the current year. The accountability period will last only as long as required to meet the performance obligations outlined in the performance agreement.

Utilizing the information gathered, City Staff will compile an incentives report, showing statistics and other information relative to each recipient of funds, as well as the overall performance of each fund. The report will be provided to the Public Incentives Review Committee by April 1. If either City Staff or the Public Incentive Review Committee finds that substantial compliance has not been met by a firm, as calculated in the respective performance agreements, the firm shall be notified of such finding before presenting the incentives report to the City Commission.

The incentives report along with comments and recommendations from the Public Incentives Review Committee shall be submitted by City Staff to the City Commission no later than May 1. This submission shall note any firms that wish to appeal a finding of non-compliance. Firms must provide a written request for appeal of such findings to the City no later than May 15 to ensure that any appeals for the current year are addressed in a timely manner. Written requests to appeal a finding must:

1. address the specific targets the firm is not meeting,
2. include reasons for non-compliance with these particular performance targets, and
3. discuss whether the firm believes that substantial compliance can be met in the following year.

Property Tax Abatements

PURPOSE FOR PROPERTY TAX ABATEMENTS

In order to help meet its economic development objectives, the City of Lawrence may from time to time grant tax abatements to firms that meet State Constitutional requirements or have received an Industrial Revenue Bond, and are within the City's targeted industries. It shall be the policy of the City to grant up to a 50% "Baseline" abatement for firms that meet the investment and employment criteria outlined in Sections 1-XXXX. Firms may receive an additional abatement if they meet the additional criteria outlined in these same sections.

1-2132 **DEFINITIONS**

For the purpose of the Property Tax Abatement section of the Ordinance, in application to the City of Lawrence, the words or phrases as used shall have the following meaning:

Deleted: this section

Deleted: in this rdinance

- (A) "Applicant" shall mean and include the business, property owner or owners, and their officers, 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 or the establishment of a new business enterprise which:
 - (1) is or proposes to be located or principally based in Kansas; and
 - (2) can provide demonstrable evidence that:
 - i) it is or will be primarily engaged in any one or more of the Kansas basic industries: or

ii) it is or will be primarily engaged in the development or production of goods or the provision of services for out-of-state sale; or

iii) it is or will be primarily engaged in the production of raw materials, ingredients or components for other enterprises which export the majority of their products; or

iv) it is a national or regional enterprise which is primarily engaged in interstate commerce; or

v) it is or will be primarily engaged in the production of goods or the provision of services which will supplant goods or services which would be imported into the city; or

vi) it is the corporate or regional headquarters of a multistate enterprise which is primarily engaged in out-of-state industrial activities that take place outside of Lawrence.

(E) "Kansas basic industry" shall mean:

(1) Agriculture;

(2) mining;

(3) manufacturing;

(4) interstate transportation;

(5) wholesale trade which is primarily engaged in multistate activity or which has a major import supplanting effect within the state;

(6) financial services which are primarily engaged in providing such services for interstate or international transactions;

(7) business services which are primarily engaged in providing such services to out-of-town markets;

(8) research and development of new products, processes or technologies; or

(9) tourism activities which are primarily engaged in for the purpose of attracting out-of-state tourists.

As used in these subsections, "primarily engaged" means engagement in an activity by an enterprise to the extent that not less than fifty-one percent (51%) of the gross income of the enterprise 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 which is new to the tax rolls and used during the term of the tax exemption which may be granted.

1-2103 **REQUIREMENTS FOR CONSIDERATION OF A TAX ABATEMENT**

The City shall only grant a tax abatement to a business which meets the legal requirements for a tax abatement and which indicates in their application that they will fully comply with the following requirements:

(A) The business is environmentally sound.

(B) The business pays all employees in the abated project an average wage per employment category that meets or exceeds the average in the community as determined annually by the Kansas Department of Human Resources Wage Survey.

Deleted: (B) The business is small and medium size...to avoid a situation where the City becomes dependent on one industry, and to maintain the character of the community.¶

(C) The business pays all covered employees a wage, at or above, an amount which is equal to one hundred thirty percent (130%) of the federal poverty threshold for a family of three (3), as established by the United States Department of Health and Human Services, as further set forth in Section 1-2105 of this ordinance.

(D) The business provides one of the following:

(1) the availability of covered employees to obtain an employer-sponsored health insurance policy, pursuant to employer guidelines, in which case the employer provides a minimum of seventy percent (70%) of the cost of such policy; or

Comment [Col1]: Does this policy get at what we are trying to do? EG- might induce firms to offer lower quality health care policies in order to meet 70% premium payment requirement.

(2) as an alternative to offering an employer-sponsored health insurance policy, the employer shall pay the covered employee a wage which is at least \$1.50 per hour above the amount required in (C) above.

Deleted: , as further set forth in Section 1-2105 of this ordinance

(E) The proposed project and tax abatement results in a combined positive cost:benefit ratio of 1:1.25 or greater over a 15 year period as determined by the City adopted benefit-cost model.

Deleted: econometric

Deleted: to keep the overall property tax rate as low as possible

1-2105 WAGE FLOOR AND HEALTH INSURANCE REQUIREMENTS

The requirements of Section 1-2103, subsections c and d, may be referred to as the wage floor and health insurance requirements of this policy. The wage floor requirements shall be annually adjusted pursuant to the release of statistical information from the federal government, and the City shall notify in writing the businesses receiving a tax abatement, which are affected by the wage floor requirements. For 2009, the wage floor is \$11.43 per hour. These requirements shall apply to all employees of a business receiving a tax abatement at the specific real estate receiving the tax abatement, with the exception of a business that has Lawrence operations prior to the granting of a tax abatement in which case the wage floor and health insurance requirements shall apply to all employees in the abated project.

Deleted: Ordinance

Deleted: shall be

The wage floor and health insurance requirements for tax abatements shall not apply to the following employees:

Deleted: of this Ordinance

(A) employees employed in a bona fide or certified job training program for no more than 60 calendar days (once per employee);

(B) temporary employees working fewer than 100 hours per calendar year;

(C) employees with the status of student seasonal workers hired for not to exceed ninety calendar days, or

(D) employees of not-for-profit organizations.

Comment [CoL2]: Not-for-profits would not qualify for a tax abatement.

Covered employees would not include subcontractors whose work is only incidental to plant operations. Suppliers, raw goods/material suppliers, landscape companies, construction contractors, delivery employees shall not be covered employees.

The wage floor and health insurance requirements shall not apply to employees covered by a collective bargaining agreement that provides a wage higher than the requirements of this ordinance.

Comment [CoL3]: Moved 1-2106 to 1-2115 to after sections discussing the things that firms are probably most interested in and most need to know (after the Annual Review section).

In order to ensure compliances with the health and wage floor requirements, firms shall maintain payroll records for covered employees and shall preserve them for a period of two (2) years. The records shall contain:

- (1) the name and address of each covered employee;
- (2) the job title and classification;
- (3) the number of hours worked each day;
- (4) the gross wages earned and deductions made;
- (5) a record of health insurance payments made by the employee and the employer; and
- (6) additional information necessary to establish that an employee is exempt from the wage floor and health insurance requirements established in Section 1-2105.

A copy of these records shall be provided to a third-party auditor to review and determine compliance with the requirements of this ordinance. Members of the Public Incentive Review Committee, City staff selected by the City Manager, or the City Commission may review these records in the custody of the third-party auditor but may not do anything to remove or destroy their confidential nature.

1-2116 **AMOUNT OF TAX EXEMPTION**

It shall be the policy of the City to approve a tax abatement for the real property portion of a project if the project meets the requirements set forth in Sections X-XXXX of this ordinance. In determining the actual amount of tax abatement to be granted to Kansas basic industries that meet the Economic Development Objectives of Section 1-2103 of this Ordinance, the City shall use as a guideline the following basic schedule:

Deleted: of this ordinance

Comment [Col4]: Note: the "other requirements" was specified in the previous sentence.

Deleted: and the other requirements of this ordinance

(A) up to fifty percent (50%) property tax abatement for ten years on investments greater than \$7 million in adjusted 2009 dollars and a minimum of 30 new jobs that meet the wage requirements as outlined in Section 1-2105; OR

Comment [Col5]: Other cities generally have a floor between 5 and 10 million dollars of capital investment, when there is a floor.

Deleted: less than \$20 million

(B) if the firm has been on the Douglas County property tax rolls for more than 3 years, up to fifty percent (50%) property tax abatement for ten years on investments greater than \$5 million in adjusted 2008 dollars and a minimum of 20 new jobs that meet the requirements outlined in Section 1-2105;

Comment [Col6]: Most cities have new job target requirements as well. This is designed to set a minimum threshold.

Comment [Col7]: Added to provide additional benefits for local firms.

(C) investments that meet one or more of the following criteria, may receive a property tax abatement that exceeds fifty percent (50%):

Deleted: when the investment under consideration meets one of the following criteria, the City Commission may consider a property tax abatement that exceeds fifty percent (50%)

- A company that has been on the Douglas County property tax rolls for at least three (3) years may receive up to an additional ten percent (10%) tax abatement;
- Capital investments that exceed \$10 million dollars in adjusted 2009 dollars may receive up to an additional five percent (5%) abatement;
- Projects constructed in compliance with Leadership in Energy and Environmental Design (LEED) criteria may receive up to an additional five percent (5%) abatement for "Certified" or "Silver" certification, and ten percent (10%) for "Gold" or "Platinum" certification;
- Unique site constraints or construction requirements that make development more difficult and costly may receive up to an additional five percent (5%) abatement;

Comment [Col8]: Second feature to benefit local firms.

Deleted: 20

Comment [Col9]: Consistent with other sustainable policies as forwarded by SAB.

- A project that is seen as a catalyst for future projects in an economic development area of focus for the community, such as the biosciences, may receive up to an additional five percent (5%) abatement;
- A project that is located in a targeted development location as defined by the City Commission, or a site that already has infrastructure in place such as an existing business park, may receive up to an additional five percent (5%) abatement.

These criteria are additive. For example, a local firm that invested \$15 million in real property and received LEED gold certification on the new facility, may qualify for a property tax abatement of up to 75%. This abatement would include the 50% "Baseline" abatement, plus a 10% adjustment for being a local firm, plus a 5% adjustment for a capital investment exceeding \$10 million, plus a 10% adjustment for LEED gold certification.

Comment [Col10]: Added this example to clarify that the above criteria are additive, not exclusive.

(D) the governing body may vary the amount, maximum, and duration of the abatement provided the net abatement to a business shall not reduce the net tax revenues as would be received pursuant to the above schedules to the local taxing units over ten (10) years.

The abatement term for projects considered under authority of Section 13 of Article 11 of the Kansas Constitution shall begin in the calendar year after the calendar year in which the business commences its operations. The abatement term for Industrial Revenue Bond (IRB) projects considered under authority of K.S.A. 12-1740 et seq. and K.S.A. 79-201a shall begin in the calendar year after the calendar year in which the bonds are issued.

1-2118 **APPLICATION AND RENEWAL FEES**

Any business requesting a tax abatement pursuant to this ordinance shall pay to the City an application fee of \$500.00 which shall be submitted at the same time the application form required in Section 1-2117 is submitted. In addition, any business which has been granted a tax abatement shall pay an annual renewal fee in the amount of \$200.00. In addition to the application and renewal fees, the business seeking a tax abatement shall be responsible for any City costs associated with the retention of bond counsel, attorney costs, or auditing costs associated with

Comment [Col11]: Old \$1,000 fee included payment for KU to run cost benefit model.

Comment [Col12]: Changed annual fee from \$250 to \$200. Total costs now \$2,500, which is less than regional average of \$2,800 (including DeSoto), and still covers much of our costs for evaluating abatements.

abatement approval and review, auditing or industrial revenue bond issuance.

Comment [Col13]: Removed Performance Agreement since this would now be governed by overarching policy.

1-2122 LETTERS OF INTENT

For IRBs, the City Commission may issue a letter of intent, setting forth in general terms its proposed plans for granting a tax abatement and any conditions thereto. Such letters of intent shall be issued only as an expression of good faith intent and shall not in any way bind the City Commission to the granting of an abatement. 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, Chamber employee, or other public or private body or individual, shall be authorized to speak for and commit the City Commission to the granting of a tax abatement. Letters of intent issued by the City Commission shall supersede any letters issued by the Public Incentives Review Committee.

Deleted: 1-2124 PERFORMANCE AGREEMENT AND ENFORCEMENT.¶

(A) Any tax abatement granted pursuant to this ordinance shall be accompanied by a Performance Agreement between the applicant and the City. The Performance Agreement shall include provisions to ensure compliance with the requirements of this ordinance, and appropriate consequences in the event of non-compliance. (Ord. 7706)¶

(B) The Performance Agreement shall indicate that if the business receiving tax abatement does not comply with the wage floor and health insurance requirements of this Ordinance, then the business shall be required to pay, on an annual basis, to the City a certain amount as established below:¶

The business shall pay to the City, by May 20, an amount of money equal to two hundred percent (200%) of the difference between the actual wages paid to employees covered by the wage floor and health insurance requirements and the amount of wages that should have been paid to the same employees to comply with the wage floor and health insurance requirements of this ordinance. This payment to the City may not exceed the annual value of the abated property taxes to the business. Upon City receipt of the payment from the business, the payment shall be disbursed as follows: half of the payment amount shall be sent to eligible employees or former employees of the business in amounts equal to the difference between their actual wages/health insurance benefits and the wages/health insurance benefits required by this ordinance; the other half of the payment shall be retained by the City and used, pursuant to City Commission direction, for economic development purposes, including employee training programs. (Ord. 7706)¶

(C) The Performance Agreement shall also require the monitoring of the average wage criteria of the Kansas ... [1]

1-2110 MINIMUM PAYMENT IN LIEU OF TAXES

Any applicant receiving a tax abatement pursuant to this ordinance shall be required to make a minimum payment in lieu of taxes. The minimum payment shall equal the amount of property tax paid or was 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 buildings. The purpose of requiring a minimum payment in lieu of taxes is to provide the City, the County, the School District and any other taxing jurisdictions affected by the abatement with as much tax revenue from the exempted property as was received prior to the abatement.

1-2106 LEGAL AUTHORITY

The governing bodies of Kansas counties and cities may exempt certain property used by Kansas basic industry for economic development purposes from taxes for a maximum of ten (10) years, in accordance with the provisions of Section 13 of Article 11 of the Kansas Constitution and the provisions of K.S.A 12-1740 et seq. and K.S.A 79-201a, subject to such limitations or prohibitions as may be enacted by the legislature. This authority is discretionary with the City, and the City may provide for tax abatements in an

Deleted: Upon receiving the recommendations of the Public Incentives Review Committee, t

amount and for purposes more restrictive than that authorized by the Constitution or any such legislation. Pursuant to its home rule and statutory powers, the City may:

- (A) require the owners of any property for which an abatement is requested to provide certain information;
- (B) condition the granting of an abatement to an agreement providing for the payment of in lieu charges or taxes; and
- (C) require the payment of initial application and annual renewal fees reasonably necessary to cover the costs of administration.

1-2108 **JURISDICTION**

The City shall grant tax abatements only as to property located within the City. The City will advise Douglas County and appropriate school districts on all applications. The City encourages the Board of County Commissioners to advise the City as to applications outside the City and within the three-mile area.

-
1-2109 **NOMINAL TAX DETERMINATION**

All tangible property of a business receiving a tax abatement under this ordinance shall be annually assessed by the County Appraiser in the same manner as if it were not exempt, but the amount exempted 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 Treasurer, in the same manner as if the property were not exempt. Separate assessment and tax calculations shall be made for the land and the improvements thereon.

The County Clerk and Treasurer are requested to provide the City with this information as early as possible, but not later than November 15 of each year.

1-2111 **SPECIAL ASSESSMENTS**

Any tax abatement granted for real property under this ordinance shall not affect the liability of such property for any special assessments levied or to be levied against such property.

1-2112 **PIRATING**

It is the intent of the City, the County and the Chamber to avoid participation in "bidding wars" between Kansas cities or areas competing for the relocation of an existing Kansas 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. It is the policy of the City to discourage applications for tax abatements, or to grant tax abatements which deliberately encourage and cause the pirating of business from another Kansas community to this community. This policy does not preclude the providing of information to companies that inquire about Lawrence or are seeking an expansion rather than a relocation. It also does not preclude the granting of a tax abatement 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 state.

1-2115 **NO UNFAIR ADVANTAGE**

A tax abatement will not be granted if the abatement would create, in the judgment of the City Commission, an unfair advantage for one business over another Lawrence business that competes for the same consumer market within the city.

1-2126 **TRANSFER OF OWNERSHIP OR USE**

No abatement or tax incentive granted by the City 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 abatement. Further, the City shall be notified by the business of any substantive change in the use of a tax exempt property.

1-2127 **DISTRIBUTION OF REVENUE**

The granting of tax abatement by the City Commission is hereby declared to be a contract under the provisions of K.S.A. 12-147.

The in lieu of taxes payment which may be required of a business granted a tax abatement under this ordinance shall be paid to the County Treasurer, with notice of the amount and date paid provided to the City. The County Treasurer is directed to apportion the payment to the general fund of all taxing subdivisions, excluding the state, which levies 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.

1-2128 **EXEMPTION ORDINANCE**

The City Clerk shall provide a copy of the ordinance, as published in the official city newspaper, granting an abatement 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.

1-2129 **EXEMPTION FORMS**

A copy of the exemption application 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.

1-2131 **NO RETROACTIVE APPLICATION**

This ordinance shall only apply to tax abatements approved after the adoption of the ordinance, and shall not apply retroactively to previously approved abatements and projects. Tax abatements granted pursuant to earlier City policies and procedures shall be governed by the City policy and procedures in effect upon the initial granting of the abatement.

1-2124

PERFORMANCE AGREEMENT AND ENFORCEMENT.

(A) Any tax abatement granted pursuant to this ordinance shall be accompanied by a Performance Agreement between the applicant and the City. The Performance Agreement shall include provisions to ensure compliance with the requirements of this ordinance, and appropriate consequences in the event of non-compliance. (Ord. 7706)

(B) The Performance Agreement shall indicate that if the business receiving tax abatement does not comply with the wage floor and health insurance requirements of this Ordinance, then the business shall be required to pay, on an annual basis, to the City a certain amount as established below:

The business shall pay to the City, by May 20, an amount of money equal to^[Col.1] two hundred percent (200%) of the difference between the actual wages paid to employees covered by the wage floor and health insurance requirements and the amount of wages that should have been paid to the same employees to comply with the wage floor and health insurance requirements of this ordinance. This payment to the City may not exceed the annual value of the abated property taxes to the business. Upon City receipt of the payment from the business, the payment shall be disbursed as follows: half of the payment amount shall be sent to eligible employees or former employees of the business in amounts equal to the difference between their actual wages/health insurance benefits and the wages/health insurance benefits required by this ordinance; the other half of the payment shall be retained by the City and used, pursuant to City Commission direction, for economic development purposes, including employee training programs. (Ord. 7706)

(C) The Performance Agreement shall also require the monitoring of the average wage criteria of the Kansas Department of Human Resources, the number of jobs provided by the employer, and the capital investment projections set forth in the original application. The provisions concerning the consequences for non-compliance with the wage floor and health insurance requirements shall not apply to other areas of non-compliance of a tax abated

business, rather any non-compliance shall be reviewed by the Public Incentive Review Committee, and as appropriate, the City Commission. Each tax abatement shall be annually reviewed by the Public Incentives Review Committee, as set forth in Section 1-2125, which shall forward a copy of the annual review and appropriate recommendations to the City Commission. The City Commission shall receive the annual review report, and if the City Commission determines that a business or project is not in compliance with the provisions of the Performance Agreement, then the tax abatement may be modified pursuant to the Performance Agreement as the City Commission deems appropriate. The County Appraiser and the State Board of Tax Appeals shall be notified of appropriate actions. (Ord. 7706)