

**ORDINANCE NO. 7706**

An Ordinance Establishing the Policy and Procedures for Tax Abatements and Incentives for Economic Development for the City of Lawrence, Kansas; Establishing Requirements for Companies Receiving Tax Abatements; Repealing Resolution No. 6343

**Be It Ordained By the Governing Body of The City of Lawrence, Kansas:**

**SECTION**

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**Section 1. Purpose.** The purpose of this ordinance is to establish the official policy and procedures of the City for the granting of property tax exemptions for real and personal property being added to the tax rolls by "Kansas basic industry" in accordance with the provisions of Section 13 of Article 11 of the Constitution of the State of Kansas and the provisions of K.S.A 12-1740 et seq. and K.S.A 79-201a. In addition, certain requirements of this ordinance shall apply to the granting of certain public subsidies by the City as further set forth in Section 30.

**Section 2. General Objective.** The securing of private economic investment to broaden the tax base is an important current and long term objective of the City. When fiscal benefits exceed fiscal costs, a broadened tax base provides local government with the financial resources to maintain and enhance the services available to all residents. The creation of job opportunities for Douglas County residents is also an important current and long term objective of the City. The quality of life for all area residents is enhanced when good job opportunities are available.

The granting of property tax exemptions on new real and personal property is one of the incentives available under Kansas law to help achieve these public objectives. This ordinance establishes the policy, procedures and requirements to govern the fair, effective and judicious use of the power to grant such exemptions.

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, a property tax exemption may not be offered to every firm that is eligible under state statutes. Instead, property tax exemptions will be targeted toward businesses meeting the objectives defined in Section 3.

**Section 3. Economic Development Objectives.** The City works in cooperation with Douglas County and the Lawrence Chamber of Commerce to achieve the general objectives outlined in Section 2. 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.

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

- a) encourage existing industry to expand
- b) assist new business start-ups
- c) recruit new companies from out-of-state and internationally
- d) encourage high technology and research based-businesses

- e) encourage training and development of Lawrence area employees
- f) 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:

- a) providing the necessary zoning and infrastructure improvements that are required to create new jobs and new investment; and
- b) providing the personal assistance and in some cases the incentives including a property tax exemption, that are required to compete for new start-up businesses, expansions of existing businesses and relocations from out-of-state.

All three partners believe that Lawrence and Douglas County should be selective as to the kinds of businesses that are recruited and assisted.

**Section 4. 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 qualifying requirements:

- a) the business is environmentally sound.
- 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 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.
- d) 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 5 of this ordinance

- e) 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
  - 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 Section d) above, as further set forth in Section 5 of this ordinance.
- f) 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 econometric model to keep the overall property tax rate as low as possible.

**Section 5. Wage Floor and Health Insurance Requirements.** The requirements of Section 4, subsections d and e, may be referred to as the wage floor and health insurance requirements of this Ordinance. 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 2003, the wage floor shall be \$9.53 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.

The wage floor and health insurance requirements of this Ordinance shall not apply to the following employees:

- 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.
- d) employees of not-for-profit organizations.

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.

**Section 6. 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 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.

**Section 7. General Procedure.** The following basic procedure shall govern the issuance of tax abatements within this City:

- a) the applicant business shall apply for a tax exemption by filing a written application as provided in Section 17. Only new real and personal property that is not already on the Douglas County tax rolls shall be eligible;
- b) the City Commission shall then determine whether the requested tax abatement
  - 1) may be lawfully granted, and
  - 2) should be granted, with the amount thereof to be determined later.
- c) the amount of the tax abatement will be determined in accordance with Section 16 of this Ordinance
- d) Notice of the City's intent to issue a tax abatement will be submitted to the

State Board of Tax Appeals for final approval. If such approval is denied the abatement cannot legally be awarded.

- e) if the business fails to pay the in lieu tax payments, as may be required as a condition of the granting of an abatement, or fails to provide the reports or other information requested by the City, the City may revoke, or modify the abatement.

**Section 8. 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.

**Section 9. 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

- a) land,
- b) the improvements thereon, and
- c) for any tangible personal property associated with, the business.

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.

**Section 10. 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.

**Section 11. 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.

**Section 12. 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.

**Section 13. "Public Good" Requirement.** The basic principle from which the City operates is that private business should not be subsidized with public funds, the indirect consequences of tax abatements, unless the public good expressed in Section 2 of this ordinance is served.

**Section 14. Standards for Costs and Benefits.** The City, in determining whether a tax abatement should be granted; shall conduct a cost benefit analysis which will consider various factors including, but not limited to, the following:

- a) the increase in appraised valuation of the property;
- b) the sales and income tax revenue which may result;
- c) the number of new jobs, the earnings and the benefits that will be provided;
- d) the expenditures that local government 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, social programs, etc. for the new residents associated with the company;
- f) the expenditures for capital investments (library, streets, airport, sewer plants, etc.) for the new residents associated with the company;
- g) the expenditures by the local school district to provide the facilities and to educate the students of the 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 economy;
- j) the kinds of jobs created in relation to the types of skills available from the local labor market;
- 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 the local economy;
- l) the potential of the business for future expansion and additional job creation;
- m) 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;
- 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; and
- 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 15. 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.

**Section 16. Amount of Tax Exemption.** In determining the actual amount of tax abatement to be granted to Kansas basic industries that meet the Economic Development Objectives of Section 3 of this ordinance and the other requirements of this ordinance, the City shall use as a guideline the following basic schedule:

- a) fifty percent (50%) property tax abatement for ten years on investments less than \$20 million in adjusted 2001 dollars;
- b) when the investment under consideration exceeds \$20 million dollars in adjusted 2001 dollars the City Commission may consider a property tax abatement that exceeds fifty percent (50%);
- c) a company that has been on the Douglas County property tax rolls for at least three (3) years shall be eligible for an additional five percent (5%) tax abatement for a new project; and

- d) the governing body may vary the amount 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. It shall be the policy of the City to approve a tax abatement for the real property and personal property portion of a project if the project meets the requirements of this ordinance.

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 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.

**Section 17. Application Required.** The City will not consider the granting of any tax abatement unless the business submits a full and complete application, and provides such additional information as may be requested by the Governing Body. The City Manager is hereby authorized and empowered to prepare a standard application form which, upon completion, will provide the Governing Body 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 ordinance adopted in reliance on said information.

**Section 18. Application and Renewal Fees.** Any business requesting a tax abatement pursuant to this ordinance shall pay to the City an application fee of \$1,000.00 which shall be submitted at the same time the application form required in Section 17 is submitted. In addition, any business which has been granted a tax abatement shall pay an annual renewal fee in the amount of \$250.00. 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 abatement approval and review, auditing or industrial revenue bond issuance.

**Section 19. Initial Review Procedure.** Upon receipt of the completed application form and the required fee, the City Manager shall determine:

- a) whether the application is complete and sufficient for review; and

- b) whether the applicant's business is eligible for an abatement under the Kansas Constitution, this ordinance or any other applicable 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 abatement, the matter shall 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 Public Incentives Review Committee.

**Section 20. Public Incentives Review Committee.** There is hereby created a Public Incentives Review Committee, which 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 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, and
- g) a resident of Lawrence appointed for a three year term by the Mayor and the City Commission. City, County, and School District staff shall provide technical and policy advice to the Committee. The Committee shall meet on call of the Mayor. The purpose of the Public Incentives Review Committee shall be to:
  - 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 the company meets the target objectives of Section 3,
  - 3) to conduct preliminary negotiations with the applicant business, as appropriate,

- 4) to review the City's yearly tax abatement report and compliance with performance agreements, and
- 5) to make such recommendations to the City Commission. 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.

**Section 21. Initial City Commission Action.** Upon receiving the recommendations of the Public Incentives Review Committee, the City Commission shall first determine whether to reject the requested exemption or to further consider the request. Upon a favorable vote for further consideration, the City Commission may issue a letter of intent as provided by Section 22 and schedule a public hearing thereon.

**Section 22. Letters of Intent.** Upon receiving the recommendations of the Public Incentives Review Committee, 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.

**Section 23. Notice and Hearing.** No tax abatement shall be granted by the City prior to a public hearing thereon. Notice of the public hearing shall be published at least seven days prior to the hearing in the official City newspaper, giving the time and place, and the hearing may be held at a regular or special meeting of the City Commission. The City Clerk shall thereupon notify the Board of Douglas County Commissioners, the

Superintendent of appropriate school districts, and the clerk 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 such public agency with a copy of the application which shall remain confidential unless released by the City Commission or the Public Incentives Review Committee. The applicant business shall be invited, but not required, to attend the public hearing.

**Section 24. 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.
- 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.

- 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 25, 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.

**Section 25. Annual Review for Compliance.** All tax abatements granted shall be subject to an annual review by the Public Incentives Review Committee to ensure that the ownership, use of property, and the economic performance of the business, including the capital investment, employment, and wages, are pursuant to requirements and criteria of this ordinance, the application for tax abatement, and the conditions of the granting of the tax abatement. The review shall also include a comprehensive review of the entire abatement period for the business, including milestones and project phases for the business. The annual review shall provide an opportunity for the company receiving the abatement to describe their achievements, especially in the areas of environmentally sound practice, community engagement and services, and job training. If the business:

- a) no longer qualifies for a tax abatement pursuant to law or this policy;
- b) substantially fails to meet the expectations set forth in the application for a tax abatement, including failure to meet employment, wage, or capital investment plans in the application; or
- c) substantially fails to meet the criteria or objectives of this ordinance; the City Commission, after notice and a public hearing may modify the exemption by ordinance.

Each business receiving a tax exemption shall be required to complete an annual

report by March 1. The information in the report will cover the time period of January 1 through December 31 of the previous year. The annual report will be reviewed by the Public Incentives Review Committee and presented to the City Commission by May 1.

By May 1 of each year, the Public Incentives Review Committee shall also present an annual report to the City Commission that lists all of the property tax exemptions that remain in effect at that time. The annual report shall include information regarding when the exemption was granted, when the exemption expires, current property taxes paid for the property, in lieu of tax payments, amount of any industrial revenue bonds issued, the assessed value of the property, number of employees, salary and payroll of employees, and any additional information concerning the operation of the business receiving the exemption, and other information as requested by the City Commission.

The Public Incentives Review Committee shall monitor compliance for the wage floor and health insurance requirements. If a business fails to comply with the wage floor and/or health insurance requirements, the business shall provide a written explanation and a plan for correcting the non-compliance. This information shall be contained in the report submitted by the Public Incentives Review Committee to the City Commission. If the business is in non-compliance with the wage floor and/or health insurance requirements for two (2) consecutive years, the City Commission shall take appropriate actions to completely remove the tax abatement for the business, unless the City Commission, by a super-majority vote (currently four (4) votes), determines that extraordinary circumstances exist and the tax abatement should be allowed to continue.

The failure of a business to provide accurate and timely information to the City in the preparation of the annual report shall be grounds for the modification or repeal of the tax abatement. The City shall retain a qualified third party consultant to assist the preparation of any report and to maintain the confidentiality of the personnel and wage records of a business.

A business that is required to comply with the wage floor and health insurance requirements of this ordinance shall maintain payroll records for covered employees and shall preserve them for a period of two (2) years. The records shall contain:

- a) the name and address of each covered employee;
- b) the job title and classification;
- c) the number of hours worked each day;

- d) the gross wages earned and deductions made;
- e) a record of health insurance payments made by the employee and the employer; and
- f) additional information necessary to establish that an employee is exempt from the wage floor and health insurance requirements established in Section 5.

A copy of these records shall be provided to the 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.

**Section 26. 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.

**Section 27. 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.

**Section 28. 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.

**Section 29. 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.

**Section 30. Other Public Subsidies and Industrial Revenue Bonds.** A business receiving a public subsidy for economic development purposes, as defined by this section, that is not in the form of a tax abatement, shall enter into a Performance Agreement with the City and shall be required to comply with the wage floor and health insurance requirements of this ordinance. A public subsidy may include the granting of public funds or a public good to a business for the sole purpose of inducing the business to relocate in Lawrence or to remain in Lawrence for economic development purposes. Examples of a public subsidy for economic development purposes in the form of public funds or a public good, include, but are not limited to, the construction of public infrastructure for the sole benefit of a business, without a general City at-large infrastructure benefit; the donation of public land or the reduction of rent for the use of City land or a City building, the reduction or elimination of required City fees, charges, etc. A public subsidy below an annual amount of \$100,000 shall not require compliance with the provisions of this ordinance. The provisions of this ordinance shall not apply to a business receiving industrial revenue bonds, unless the industrial revenue bond recipient is receiving a tax abatement for economic development purposes.

**Section 31. 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.

**Section 32. Definitions.** For the purpose of this Ordinance, in application to the City of Lawrence, the words or phrases as used in this Ordinance shall have the following meaning:

- 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.

**Section 33.** Resolution No. 6343 and all other Resolutions in conflict herewith are hereby repealed.

Adopted by the Governing Body of the City of Lawrence, Kansas this 28<sup>th</sup> day of October, 2003.

  
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 David M. Dunfield, Mayor

ATTEST:

  
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 Frank S. Reeb, City Clerk