

STATEMENT OF POLICY AND PROCEDURES
TAX EXEMPTIONS AND INCENTIVES FOR ECONOMIC DEVELOPMENT
CRAWFORD COUNTY, KANSAS

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Section 1. Purpose. The purpose of this statement is to establish the official policy and procedures of Crawford County, Kansas, for the granting of property tax exemptions and tax incentives for real and personal property used for economic development purposes, in accordance with the provisions of Section 13 of Article 11 of the Constitution of the State of Kansas.

Section 2. General Objective The securing of private economic growth and development and the addition of new jobs within the community are important current and long-term objectives of this County. The granting of property tax exemptions and tax incentives is one of the tools available under Kansas law to help secure these public objectives. This Statement is intended to establish the procedure and policy standards to govern the fair, effective and judicious use of the power to grant such exemptions and tax incentives in the County.

Section 3. Legal Authority The governing bodies of Kansas counties and cities may exempt certain property used 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, subject to such limitations or prohibitions as may be enacted by the legislature that are uniformly applicable to all cities and counties. This authority is discretionary with the County, and the County may provide for tax exemptions-incentives in an amount and for purposes more restrictive than that authorized by the Constitution or any such legislation. Pursuant to its home rule powers, the County may (1) require the owners of

any property for which an exemption is requested to provide certain information, (2) condition the granting of an exemption to an agreement providing for the payment of in lieu charges or taxes under the provisions of K.S.A. 12-147 and 12-148, and (3) require the payment of initial application and annual renewal fees reasonably necessary to cover the costs of administration.

Section 4. General Procedure. The following basic procedure shall govern the issuance of tax exemptions-incentives within this County: (1) The applicant business shall apply for a tax exemption-incentive by filing a written application as provided in Section 16. (2) The County shall then determine whether the requested tax exemption-incentive (a) may be lawfully granted, and (b) should be granted, with the amount thereof later determined. (3) If it is determined that some tax exemption-incentive should be granted, a 100 percent (100%) exemption of that property of the business legally eligible for exemption shall be provided, but subject to an agreement of the business to make an in lieu tax payment as may be negotiated by the County. (4) Upon the failure of the business to fully and timely pay the in lieu tax payments, as may be required as a condition of granting of an exemption, or to provide reports or other information requested by the County and reasonably necessary for the implementation of this policy, the County may either deny, revoke, or not renew the authorization of such an exemption. All requests for a tax exemption-incentive for economic development purposes shall be considered and acted upon in accordance with this Statement.

Section 5. "Tax Incentive" Defined. Various words and terms used in this Statement are defined in Section 6. The terms "tax incentive" or "tax exemption-incentive" shall mean the difference between the amount of ad valorem property taxes the affected business would pay if there were no county-granted exemption and the amount required to be paid as in lieu of taxes or charges. For example, if the taxes required with no exemption were \$5,000, and the required in lieu payments were \$3,000, the "tax incentive" would be \$2,000.

Section 6. Definitions. For the purpose of this Statement, in application to this County, the words or phrases as used in either the Constitution or this Statement shall have meaning or be construed as follows:

- (a) "Applicant" shall mean to 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 building.
- (c) "Commenced operations" shall mean the start of the business activity housed in the building for which tax exemption-incentive is requested.
- (d) "Economic development purposes" shall mean the establishment of a new business, or the expansion of an existing business, engaged in manufacturing articles of commerce, conducting research and development, or storing goods or commodities which are sold or traded in interstate commerce, which results in additional employment.
- (e) "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 increases the employment capacity of a business

eligible for a tax exemption-incentive and which results in the creation of new employment.

- (f) “Manufactures articles of commerce” shall mean a business engaged in the mechanical or chemical transformation of material or substances into new products, as defined in the “Standard Industrial Classification Manual.”
- (g) “Research and development” shall mean the application of science or technology to the improvement of either process of manufacturing or manufactured products of both.
- (h) “Storing goods or commodities which are sold or traded in interstate commerce” shall refer to the business of storing property which may be exempt from ad valorem taxation under the provision of K.S.A. 79-201f.
- (i) “Tangible personal property” shall mean machinery and equipment used during the term of the tax exemption which may be granted.

Section 7. Jurisdiction. The County shall grant tax exemptions-incentives only as to property located within the unincorporated areas of the County.

Section 8. Nominal Tax Determination. All tangible property of a business receiving a tax exemption-incentive under this Statement shall be annually assessed by the county appraiser in the same manner as if it were not exempt, but the amount thereof 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, but such amount shall not be placed on the tax rolls. Separate assessment and tax calculations shall be made for the land, for the improvements thereon, and for any tangible personal property associated therewith, of the exempt business.

Section 9. Minimum Payment in Lieu of Taxes. Any applicant receiving a tax exemption-incentive pursuant to this Statement shall be required to make a minimum payment in lieu of taxes which equals the amount of property tax which was paid or was payable for the most recent year on the appraised valuation of the real estate, including either buildings together with land or land only, prior to the construction of new buildings or added improvements to buildings on such property or prior to the acquisition of the property by the new business. For extraordinary reasons, such as when vacant buildings are acquired for a new business or when the market value of the property decreases, this requirement may be waived in part or in whole by the governing body, as provided in Section 27.

Section 10. Special Assessments. Any tax exemption granted for real property under this Statement shall not affect the liability of such property for any special assessments levied or to be levied against such property.

Section 11. Pirating. It shall be the policy of Crawford County to discourage applications for tax exemptions-incentives which deliberately encourage and cause the pirating of business from another Kansas community to this community, or from this community to another Kansas community. Any relocation from one community to another in Kansas will require findings as described in K.S.A. 79-251(c)(2).

Section 12. Application for “But-For” Principle. Any tax exemption-incentive granted by the County shall be subject to the “but-for” principle; i.e., the tax incentive must make such

a difference in determining the establishment or expansion of the business that the business would not otherwise be established or expanded in the County but for the availability of the tax incentive and/or other public inducements.

Section 13. Standards for Determining Benefits. The County will consider granting tax exemptions-incentives only upon a clear and factual showing of direct economic benefit to the County through advancements of its economic development goals, including the creation of additional jobs and the stimulation of additional private investment. The governing body, in determining the amount of and term of a tax exemption-incentive to be granted, may consider various factors, examples including but not limited to the following:

- (a) The appraised valuation of the property in relation to the economic benefit to the County of increased employment.
- (b) The gain in tax revenue which may result from the new or expanded business, including the increase in the property tax base upon the expiration of the exemption.
- (c) The contribution that the new or expanded business will make towards increased employment and earning within the community.
- (d) The number of new jobs created directly by the business in relation to the amount of tax incentives granted.
- (e) The kinds of jobs created in relation to the type of skills available from the local labor market.
- (f) The utilization by the business of labor skills and abilities of a large number or group of unemployed persons in the community.
- (g) The degree to which the business improves the diversification of the economy of the County and its environs.
- (h) The degree to which the ultimate market for the manufactured products is outside the community, recognizing that outside markets bring in "new money" to the local economy.
- (i) The potential of the business for future expansion and additional job creation.
- (j) 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.
- (k) The beneficial economic impact the business will have on a particular area of the County, including designated enterprise zones and areas of needed revitalization or redevelopment.
- (l) The compatibility of the location of the business with land use and development plans of the County and the availability of existing infrastructure facilities and essential public services.
- (m) The extent to which additional direct or indirect public costs to the County and to other local units would be necessary, such as the cost of the extension of public facilities.
- (n) The extent to which the economic and employment benefits of the tax incentive accrue to the residents and taxpayers of those taxing subdivisions which indirectly "subsidize" the business as a result of the foregone tax revenue.

Section 14. No Exemptions. No tax exemption-incentive shall be granted to any business which commenced operations prior to August 5, 1986, nor for the expansion of any business unless the expansion was commenced after August 5, 1986 and new employment was created as the result of said expansion.

Section 15. Amount of Tax Incentives. The two primary objectives of the County in granting tax incentives for economic development are to (1) provide needed jobs, and (2) expand the economic and tax base of Crawford County. The County recognizes that a simple system of determining the amount of tax incentives to be granted to reach these objectives may not always be equitable if applied uniformly to different kinds of businesses. As a result, in determining the actual amount of tax incentive granted, the County shall consider the factors and criteria set forth in Section 13 of this Statement. In addition, the County may consider any standard that is applicable to any given situation.

Section 16. Application Required. The County will not consider the granting of any tax exemption-incentive unless the business submits a full and complete application and provides such additional information as may be requested by the County Counselor or Governing Body. The County Counselor 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 incentive 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. The tax exemption/incentive cannot begin until the calendar year in which a new business commences its operations or the calendar year in which the expansion of an existing business is completed. Both a new business and the expansion of an existing business will have a maximum of 24 months following the start of construction to apply for an initial tax exemption/incentive.

Section 17. Application and Renewal Fees. Any business requesting a tax exemption pursuant to this Statement shall pay to the county an application fee of One Hundred Fifty Dollars (\$150.00), which shall be submitted at the same time the application form required by Section 16 is submitted. In addition, any business which has been granted a tax exemption shall pay an annual renewal fee in the amount of Fifty Dollars (\$50.00).

Section 18. Initial Review Procedure. On receipt of the completed application form and the required fee, the County Appraiser or his/her designate shall determine (a) whether the application is complete and sufficient for review, and (b) whether the applicant business is eligible for an exemption under the Kansas Constitution, this Statement and any other applicable laws. If the application is incomplete, the County Appraiser shall promptly notify the applicant, noting the need for such changes or additions as deemed necessary. If questions arise as to whether the business is legally eligible for an exemption, the matter shall be referred to the County Counselor, who shall render a written opinion. If the application is found complete and is for a purpose which appears to be authorized by law, the County Counselor shall transfer copies of the application and any supplemental information to the Administrative Review Committee.

Section 19. Administrative Review Committee. There is hereby created an Administrative Review Committee, which shall be composed of the Chairman of the Board of County Commissioners or other member of the governing body designated by a majority of the Board of County Commissioners, who shall serve as chairman, the County Clerk, the County Counselor and the County Appraiser, which shall meet on call of the chairman. The purpose of the Administrative Review Committee shall be to receive and review requests and applications for tax exemptions-incentives, to gather and review such additional information as may be deemed advisable to the governing body. Administrative 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 (18), (20), (21) 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 intent when requested by the applicant, upon a finding that the public interest requires confidentiality in order to successfully negotiate the location of the prospective business within the County or the expansion of an existing business. Such administrative letters of intent shall not be binding on the governing body, and shall be superseded by any final action by the governing body or by any letter of intent issued by the governing body under Section 22.

Section 20. Initial Governing Body Action. Upon receiving the recommendations of the Administrative Review Committee, the Governing Body shall first determine whether to reject the requested exemption or to further consider the request. Upon a favorable vote for further consideration, the Governing Body shall either (1) issue a letter of intent as provided by Section 22 or (2) schedule a public hearing thereon.

Section 21. Notice and Hearing. No tax exemption shall be granted by the County prior to a public hearing thereon, except by waiver of this requirement under Section 28. Notice of the public hearing shall be published at least seven (7) 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 Governing Body. The County Clerk shall thereupon notify the superintendent of the appropriate school district, 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 County Clerk shall provide any such public agency with a copy of the application. The applicant business shall be invited, but not required, to attend the public hearing.

Section 22. Letters of Intent. Upon receiving the recommendations of the Administrative Review Committee, the Governing Body may issue a letter of intent, setting forth in general terms its proposed plans for granting a tax exemption-incentive and any conditions thereto. Such letters of intent shall be issued only with the approval of the Governing Body, and as an expression of good faith intent, but shall not in any way bind the County to the granting of an exemption-incentive. Such letters of intent shall expire six (6) 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 County, and no chamber, board, development council or other public or private body or individual, shall be authorized to speak for and commit the Governing Body to the granting of a tax exemption-incentive.

Section 23. Annual Renewal. The extent and term of any tax exemption-incentive granted shall be subject to annual review and determination by the Governing Body to insure that the ownership and use of the property and any other qualifying criteria of the business for the tax exemption-incentive continue to exist. The review shall be completed by no later than February 1 of each year. The County shall require an annual renewal application to be filed as well as other information necessary to assure the continued qualification of the exempt business. The business shall furnish to the County, or its designated representatives, evidence to the County's satisfaction to verify employment levels and/or capital investment. The annual renewal application shall include information from the business, indicating compliance with any terms or conditions established by the governing body for the granting of the exemption, such as number and/or quality of jobs created, etc. Upon a finding that the property continues to meet all the terms and conditions established as a condition of granting the exemption, the County Appraiser shall so notify the applicant and the assessing officer shall take such action as provided by K.S.A. 79-210. No tax exemption-incentive granted shall be continued if the business ceases operations or ceases to be engaged in eligible business activities. The County reserves the right to revoke a granted tax exemption due to submittal of a fraudulent application, failure to submit the annual renewal application and supporting information, failure to meet qualifying criteria, or failure to comply with established terms or conditions including payment of fees.

Section 24. Transfer of Ownership or Use. No exemption or tax incentives granted by the County shall be transferred as a result of a change in the majority ownership of the business. Any new owner shall file a new application for a tax exemption-incentive. Further, the County shall be notified by the business of any substantive change in the use of a tax exempt property (see Section 27).

Section 25. Distribution of Revenue. The granting of tax exemption-incentives by the County is hereby declared to a contract under the provisions of K.S.A. 12-147. The in lieu of taxes payment which is required of a business granted a tax exemption under this Statement shall be paid to the county treasurer. The county treasurer is directed to apportion the payment, under the provisions of subsection (3) of K.S.A. 12-148, to the general fund of all taxing subdivisions, excluding the state, which levy taxes on property where the business is situated. 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 26. Exemption Resolution. The County Clerk shall provide a copy of the resolution, as published in the official county newspaper, granting an exemption 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 27. Exemption Forms. A copy of the exemption applications required by K.S.A. 79-213 and 79-210, as well as the statement required by K.S.A. 79-214 for the cessation of an exempt use of property filed with the County Appraiser, shall also be filed with the County Clerk by the property owner. The property owner shall additionally be obligated to pay all applicable processing fees imposed under state law, including fees of the Kansas Board of Tax Appeals.

Section 28. Waiver of Statement Requirements. The Governing Body reserves the right to grant or not to grant a tax exemption-incentive under circumstances beyond the scope of this Statement, or to waive any procedural requirement. However, no such action or waiver shall be taken or made except upon a finding by the Governing Body that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest.

BOARD OF COUNTY COMMISSIONERS
CRAWFORD COUNTY, KANSAS

Carl R. Wood, Chairman

Jeff Murphy, Commissioner

Tom Moody, Commissioner