

RESOLUTION NO. 2052

A RESOLUTION ESTABLISHING A POLICY RELATING TO PROPERTY TAX ABATEMENTS FOR NEW AND EXISTING BUSINESSES.

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

WHEREAS, it is further recognized that the stimulation of balanced economic development is a joint responsibility of the private and public sectors, working closely together creating a positive business environment and to induce industry to locate and expand in the City; and

WHEREAS, the economic development program goals of the City include economic diversification, broadening of the property tax base, stimulation of private investment, enhancement and support of new development, quality of materials and design, maintenance of environmental quality, creation and quality of employment opportunities; and

WHEREAS, to meet these economic development goals, the City recognizes the occasional necessity to grant property tax abatements and tax incentives for real and personal property pursuant to the provisions of Section 13 of Article 11 of the Kansas Constitution and K.S.A. 12-1740 *et seq.* and 79-201a; and

WHEREAS, the City’s existing Economic Development Incentive Policy, adopted April 20, 2015, and amended February 15, 2016 (collectively, the “EcoDev Policy”), references property tax abatements but does not contain the specific uniform policies and procedures required under K.S.A. 79-251(a); and

WHEREAS, the Governing Body of the City finds it necessary and desirable to adopt uniform policies and procedures as required under K.S.A. 79-251(a) and to supplement the EcoDev Policy with the policies and procedures so adopted;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

SECTION ONE: POLICY STATEMENT. It shall be the policy of the City of Gardner, Kansas to consider 50% real property tax abatement if the project qualifies for tax abatement under Kansas law and meets the criteria listed in Section Two below. Depending upon how the abatement is structured over the term, an abatement may exceed an overall average of 50%. It shall also be the policy of the City that economic development projects pay their fair share of property tax, special improvement district assessments, and cost of utility services. Economic development projects shall have a positive financial impact on the City. The City reserves the right to approve the cost-benefit analysis model used to determine the financial impact. The City shall consider the following conditions as precedents to granting property tax incentives pursuant to Section 13 of Article 11 of the Kansas Constitution and K.S.A. 12-1740 *et seq.* and 79-201a.

- A. Existence of Economic Benefit: The project must provide a clear demonstration of economic benefit to the City, which benefit can be established by, but is not limited to, such things as additional employment, increased private capital investment, expanded tax base, and spurring other economic development activities.
- B. Type of Business: The project shall be of a nature that has been identified by the Governing Body as desirable to stimulate the local economy and improve the quality of life for its citizens. The project should be one in which a substantial part of its total products and/or services are either exported from the Gardner area or it would add jobs and replace purchases now being made by Gardner citizens in areas outside of the City if the items are for local consumption. Additional considerations may include whether the project has the effect of supporting or spurring retail development, and whether a project would help the City achieve successful completion of an existing commercial or industrial park or the development of a new commercial or industrial enterprise. The City will also consider providing incentives to encourage the expansion of existing Gardner businesses.
- C. Financial Capacity: An applicant must demonstrate the financial capacity to complete the project, as well as provide evidence of adequate financial stability to reasonably assure ongoing compliance with the performance criteria associated with any abatement granted for the project. The City's financial advisor shall make recommendations to City staff and Governing Body as to an applicant's financial stability.
- D. Targeted area: An abatement adjustment of up to 15%, for a total of 65%, may be considered for projects that locate in targeted areas. The targeted areas are generally described as: (1) approximately 445 acres located along US 56 Highway west of Waverly Road as outlined in red on the map attached as *Exhibit A*; and (2) the north side of I-35 and Gardner Road interchange. The Governing Body may exceed the 15% adjustment for any project it determines to be of extraordinary benefit to the City.
- E. Warehouse Distribution and Logistics Projects: The primary locations in which the Governing Body will consider providing property tax abatements for qualifying warehouse distribution and logistics-type development projects will be: (1) approximately 239 acres located north of US 56 Highway and east and west of Clare road as outlined in red on the map attached as *Exhibit B*; and (2) Midwest Commerce Center. An abatement adjustment may be considered for projects locating in these areas.
- F. Sales Tax Exemption on Property Financed with Bond Proceeds: The City will consider on a case by case basis issuance of industrial revenue bonds for the sole purpose of enabling a project to obtain exemption from sales tax on tangible personal property or services used or consumed in construction of the Project (with no real property tax abatement).
- G. Maintain Existing Tax Base: To facilitate new development, the City and the Southwest Johnson County Economic Development Corporation shall assist new and expanding industries that invest in new buildings, building expansion, or acquire new machinery and equipment. However, the amount of property taxes or special assessments on the existing land and facilities shall under no circumstances

be reduced for new development projects. Granting of the application shall not result in the City, Johnson County (the "County"), or Unified School District No. 231 (the "School District"), or any other taxing jurisdiction affected by the abatement receiving less tax revenue from the abated property than was received prior to the abatement.

- H. Definition of New Business: The business is new to the City or has not had facilities and operations in the City for a period of not more than one year.
- I. Definition of Existing Business: The business shall have had facilities and operations in the City for a period of not less than one year prior to submitting an application for issuance of industrial revenue bonds in accordance with this policy.

SECTION TWO: ABATEMENT CRITERIA AND ADJUSTMENTS. It is the intention of the City that all projects receiving abatement meet the criteria that are detailed below. Failure to meet the standards set below may result in a decrease in the total abatement percentage available to a project. Adjustments made to increase the total abatement amount are intended as an extra incentive to exceed certain criteria.

- A. Employment – Wages: The amount and diversity of additional employment opportunities to be provided shall be a primary consideration. The project must pay "above average" wages for all full time jobs in that industry classification based upon the most recent Johnson County average wage rate conducted by the Johnson County Economic Research Institute, Inc. In addition, the number of employees may also be taken into consideration. Depending upon the project's conformance to this criterion, an increase or decrease in the abatement of up to 10% may be considered.
- B. Location: The Governing Body will give favorable consideration for a business that will be located in the targeted areas defined in Paragraphs D and E in Section One. An abatement adjustment may be considered for projects that meet this criterion.
- C. Design Criteria: The City will, at its sole discretion, require higher design standards for the design of buildings and materials used for projects receiving property tax abatement. 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 will be a consideration. The project must be environmentally acceptable to the location intended as well as the surrounding area. Preference will be given to businesses that do their own pretreatment or do not require extensive environmental controls. The proposed use must be clean, nonpolluting, and consistent with all policies, ordinances, and codes.

SECTION THREE: TERM OF ABATEMENT. The abatement period for a project approved under this Resolution shall be determined by the amount of new capital investment in the City. Capital investment shall include expenditures for land, building or personal property subject to ad valorem taxation. The normal term of abatement for each project is determined according to the following schedule, unless a different term is established by the Governing Body pursuant to Section Eight herein:

New Business

<u>Capital Investment</u>	<u>Normal Term</u>
\$2.0 million but less than \$5.0 million.....	5 years
\$5.0 million but less than \$8.0 million.....	7 years
\$8.0 million or greater.....	10 years

Existing Business

<u>Capital Investment</u>	<u>Normal Term</u>
\$2.0 million but less than \$2.5 million.....	5 years
\$2.5 million but less than \$4.0 million.....	7 years
\$4.0 million or greater.....	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 or the calendar year in which expansion of an existing business is 100% completed, as the case requires. The abatement term for projects considered under authority of K.S.A. 12-1740 through 12-1749 and 79-201a shall begin in the calendar year after the calendar year in which the bonds are issued.

SECTION FOUR: PROCEDURE. The City shall consider granting a tax exemption pursuant to this Resolution after receipt of a completed application from the applicant in a form prescribed by the City together with the application fee. The application shall be submitted in sufficient time for staff to follow required or established procedures for publication of notice, to review the project site plans and building elevations, to prepare and/or review a cost-benefit analysis, and to contact representatives of the School District.

Based on each application and such additional information as may be requested by the City, the City shall prepare or cause to be prepared a cost-benefit analysis of the proposed exemption on the City and State of Kansas, including the effect of the exemption on state revenues, which analysis shall be used by the Governing Body in considering the request for abatement. In making its decision, the Governing Body may also consider any fiscal and/or economic impact analyses performed by the School District.

The City shall contact representatives of the School District to discuss an application that includes a request for tax abatements. The contact shall be made with the School District representatives prior to the Governing Body's discussion of the application and abatement request. The Governing Body shall consider the School District's feedback and input in reviewing such requests.

The Governing Body shall conduct a public hearing prior to formal action on each resolution of intent. The public hearing shall be scheduled at least seven days after publication of notice. Notice of the hearing shall also be sent to the governing bodies of the County and the School District in the manner required by law.

SECTION FIVE: PERFORMANCE AGREEMENT. Any tax exemption granted pursuant to this Resolution shall be accompanied by a performance agreement between the applicant and/or lessee and the City which is subject to annual review and determination by the City that the

conditions qualifying the business for the exemption continue to exist. The City shall review information provided by the Company, lessee, County, and/or state to determine compliance with the agreement. If the City finds that the business or project is not in compliance, then the tax exemption may be modified pursuant to the performance agreement or eliminated, as the Governing Body deems appropriate. The County Assessor and the Board of Tax Appeals shall be notified of such action.

SECTION SIX: APPLICATION AND ORIGINATION FEES AND ADDITIONAL COSTS.
The Governing Body shall establish the following fees:

	New Business	Existing Business
Non-refundable application fee	\$2,000	\$1,000

Origination Fee: For projects requesting tax abatement, the City shall receive an origination fee of 1% of the par amount of bonds being issued or the amount of constitutional tax abatement being requested. Such fee will be used exclusively for local economic development activities but shall not be used to pay any administrative costs of the City. The fee shall be due and payable at the time the bonds are issued, or for constitutional tax abatements, at the time the ordinance is passed exempting the property from taxation.

Waiver of Fees: These fees may be reduced or waived by the Governing Body if the application is for a project that will be located in the targeted areas defined in Paragraphs D and E in Section One, or for any other project the Governing Body deems to have extraordinary benefit to the City.

Additional Costs: The applicant shall pay all actual administrative costs associated with the property tax abatement. These costs include the preparation of the cost-benefit analysis, all legal publication notices, and application fees to the Board of Tax Appeals, the City's bond counsel fees, and all other miscellaneous costs.

SECTION SEVEN: APPRAISED VALUATION OBJECTIVE. The Governing Body desires to increase the City's non-residential tax base to preserve and enhance the City's fiscal capacity to provide public infrastructure and services necessary to support economic development.

SECTION EIGHT: AUTHORITY OF THE GOVERNING BODY. The Governing Body reserves the right to deviate from any policy or procedure set forth in this Policy other than procedural requirements of State law when it considers such action to be in the best interest of the City of Gardner.

SECTION NINE: SUPPLEMENT TO AND AMENDMENT OF ECODEV POLICY. The Director of Business and Economic Development and the City Clerk are hereby authorized to take such action as may be necessary to supplement and amend the City's EcoDev Policy to include the provisions contained in this Resolution. In the event of any conflict or inconsistency between the existing EcoDev Policy and the provisions of this Resolution, the provisions of this Resolution shall control. The EcoDev Policy as previously adopted by motions of the Governing Body on April 20, 2015 and February 15, 2016 is hereby amended to conform to the provisions of this Resolution.

SECTION TEN: EFFECTIVE DATE. This Resolution shall take effect upon its adoption by the Governing Body of the City.

ADOPTED by the Governing Body of the City of Gardner, Kansas this 6th day of April, 2020.

SIGNED by the Mayor this 6th day of April, 2020.

CITY OF GARDNER, KANSAS

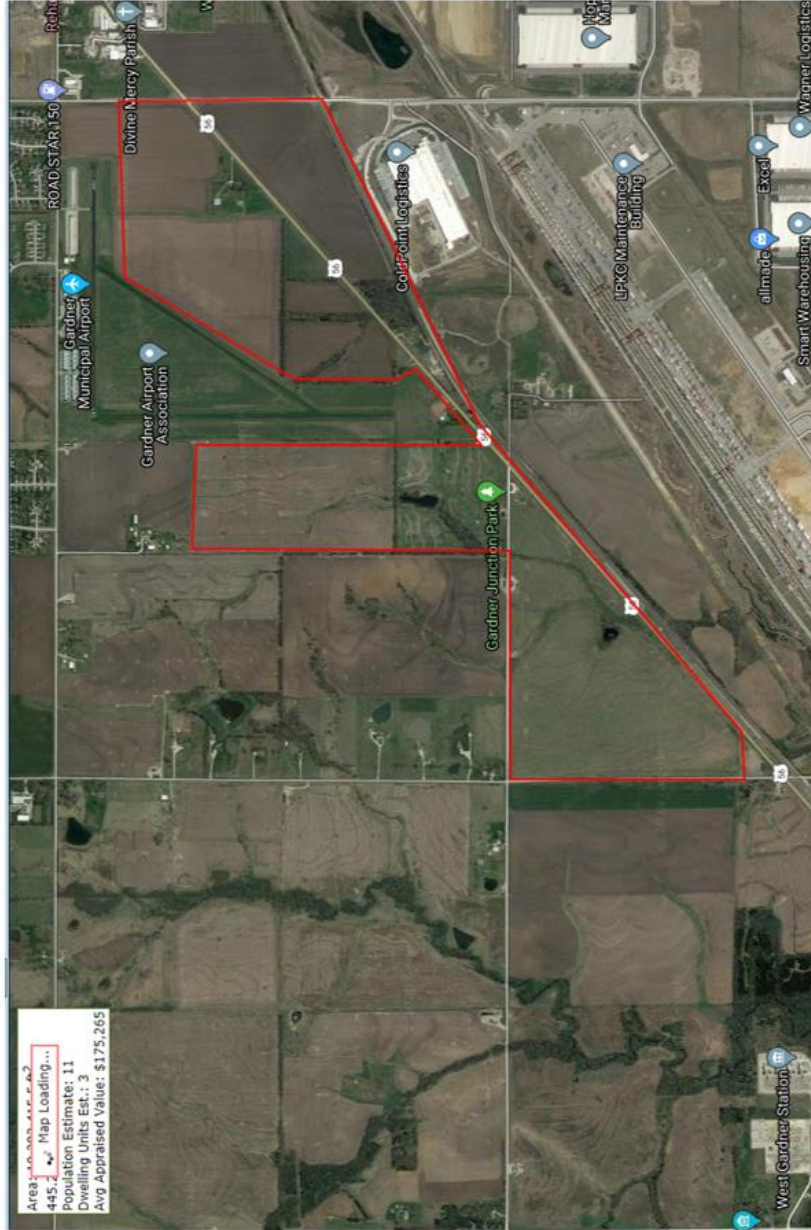
(SEAL)

/s/
Steve Shute, Mayor

Attest:

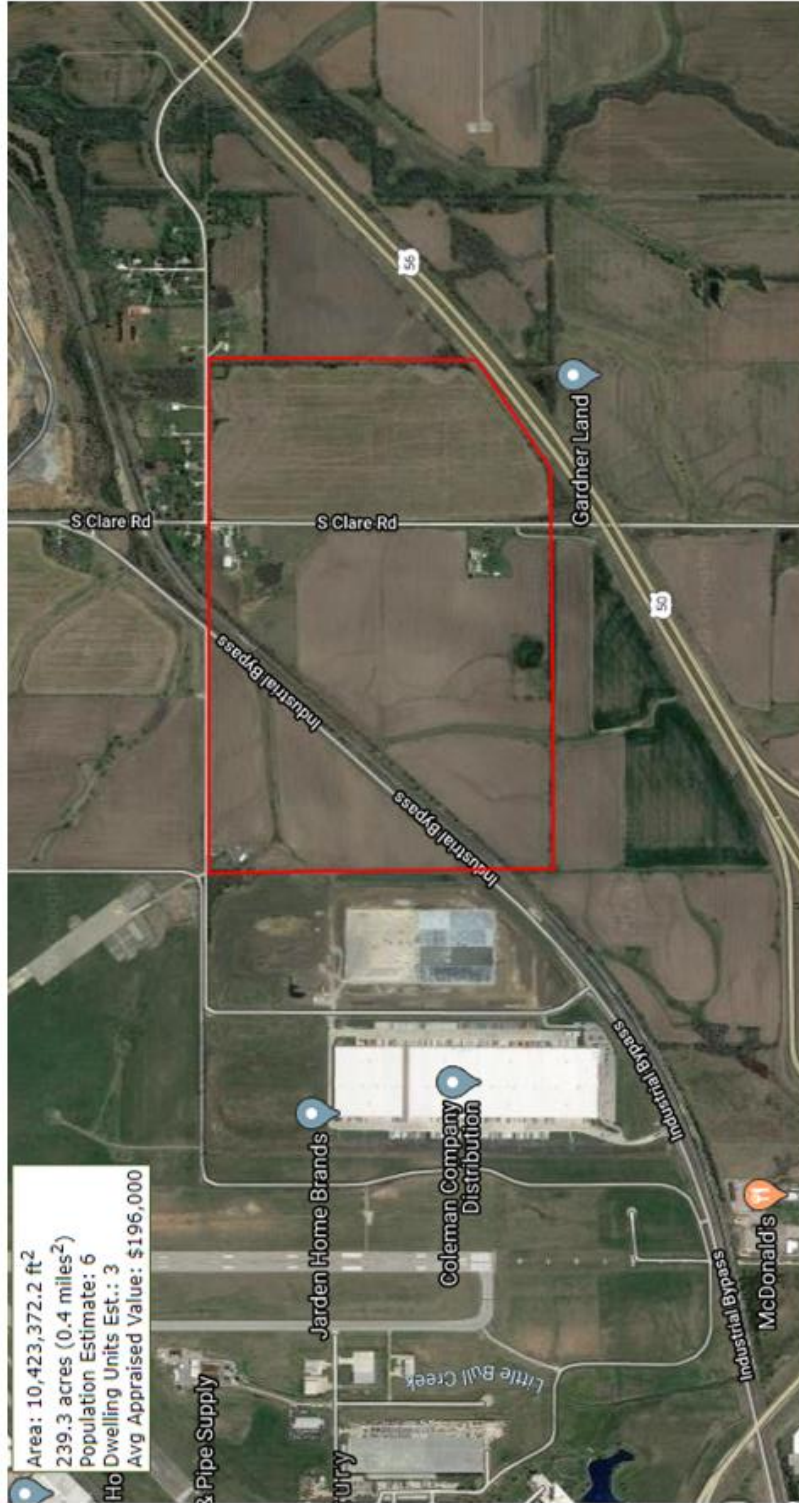
/s/
Sharon Rose, City Clerk

EXHIBIT A



Approximately 445 acres on west side of City

EXHIBIT B



East side of Gardner approximately 239 acres.