AN ORDINANCE introduced by the City Council Economic and Community Development Committee, amending City of Topeka Code §§ 138-77, 138-78, 138-79, 138-84, 138-86 and 138-87 concerning economic development tax exemptions, and repealing the original of said code sections.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That City of Topeka Code § 138-77, Application required, is hereby amended to read as follows:

Application required.

(a) The city will not consider the granting of any tax exemption under this article unless the business submits a full and complete application, and provides such additional information as may be requested by the council. The director of housing and neighborhood development chief administrative officer or a designee is hereby authorized and empowered to prepare a standard application form which, upon completion, will provide the council with adequate and sufficient information to determine whether a tax exemption should be granted and the amounts 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 such information. No application shall be received or considered after the start of construction for improvement on which the exemption is sought, provided; however, that an applicant who misses the filing deadline may submit a written statement to the chief administrative officer requesting permission to file the application within the calendar year wherein the construction or improvement is commenced. The applicant must
show excusable neglect and reliance upon the tax exemption as an incentive. Upon a
finding by the chief administrative officer that there was excusable neglect and that the
applicant relied upon the tax exemption as an incentive for the construction or improvement
the application will be received and considered.

(b) Any business requesting a tax exemption pursuant to this article shall pay to
the city an application fee of $250.00, which shall be submitted at the same time the
application form is submitted. In addition, any business which has been granted a tax
exemption shall pay an annual renewal fee in the amount of $100.00.

Section 2. That City of Topeka Code § 138-78, Initial review procedure, is hereby
amended to read as follows:

Initial review procedure.

On receipt of the completed application form and the required fee, the director of
housing and neighborhood development chief administrative officer or a designee shall
determine whether the application is complete and sufficient for review, and whether the
applicant's business is eligible for an exemption under the state constitution, this article and
any other applicable laws. If the application is incomplete, the director of housing and
neighborhood development chief administrative officer or a designee shall immediately
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 city attorney, who shall consult with the applicant. If the application
is found complete, and is for a purpose which appears to be authorized by law, the director
of housing and neighborhood development chief administrative officer or a designee shall
so notify the administrative review committee.
Section 3. That City of Topeka Code § 138-79, Administrative review committee, is hereby amended to read as follows:

Administrative review committee.

There is hereby created an administrative review committee, which shall be composed of the mayor or mayor's designee, who shall serve as chair, the deputy mayor, chief administrative officer, the director of housing and neighborhood development or a designee, a representative of the affected school district, and the member of the city council whose district is affected by the request for tax exemption. The committee shall meet on call of the chair. The purpose of the administrative review committee shall be to receive and review requests and applications for tax exemptions, to gather and review such additional information as may be deemed necessary to conduct preliminary negotiations with the applicant business and to make such recommendations as deemed advisable to the council. Administrative review committee records, including applications for tax exemptions, may be withheld from public disclosure as provided for under the Open Records Act (K.S.A. 45-215 et seq.), 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 city or an expansion of an existing business. Such administrative letters of intent shall not be binding on the council and shall be superseded by any final action of the council or by any letter of intent issued by the council.
Section 4. That City of Topeka Code § 138-84, Amount of tax incentive, is hereby amended to read as follows:

Amount of tax incentive.

The two primary objectives of the city in granting tax exemptions for economic development are to provide needed jobs, and to expand the economic and tax base of the city. The city recognizes that a simple system of determining the amount of tax exemption 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 exemption granted, the city shall consider the factors and criteria set forth in section Topeka City Code § 138-83. In addition, the city shall consider the following guidelines:

(1) Job quantity exemption reduction. A job quantity exemption reduction shall be determined at the rate of one percent (1%) exemption for each new full time equivalent job created not to exceed 70 seventy percent (70%).

(2) Job quality exemption reduction. A job quality exemption reduction shall be determined by dividing the company's average wage rate for the newly created jobs by the Shawnee County base wage rate.* The resulting factor shall be multiplied by 30 thirty percent (30%) to determine the job quality payment exemption. The job quality exemption shall not exceed 30 thirty percent (30%).

(3) Capital Investment Reduction. A capital investment payment reduction may be calculated if the amount of the capital investment is significant, if the investment contributes to the potential for new job creation or to the retention of existing jobs, if the investment has a positive impact on a particular
geographical area of the city where investment is needed, or if such capital
investment adds to the general economic welfare of the city. The capital
investment reduction shall be determined at the rate of one percent (1%) for
each one hundred thousand dollars ($100,000.00) in capital investment. The
capital investment reduction shall not exceed eighty percent (80%).

*The Shawnee County base wage rate is computed annually using the most recent
County Business Patterns published by the U.S. Bureau of Census. The base wage rate is
determined by averaging the hourly wage rate for all the county industries with the
combined hourly wage rate for all manufacturing and wholesale trade industries.

The city reserves the right to change the methodology of calculating the tax
exemption. For those businesses which have applied for or received an exemption prior to
May 1, 1991 the calculation shall be based upon the formula in Ordinance 15898.

Section 5. That City of Topeka Code § 138-86, Minimum payment, is hereby
amended to read as follows:

Minimum payment.

(a) Any applicant making an application and receiving an exemption pursuant to
this ordinance is required to pay taxes on the assessed 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 business. This payment will insure that the city, county, school district
and any other taxing jurisdictions affected will not receive less tax revenue from the
property than was received prior to the exemption.

(b) Additionally, each business will pay taxes equal to 20 twenty percent (20%) of
the tax otherwise due with respect to the exemption. If application of the formula as set forth herein yields a lesser payment, then the minimum payment of 20% will apply. For extraordinary reasons, such as when vacant buildings are acquired for a new business, when the market value of the property has decreased, or when the size of the project is exceptionally large (i.e. 40 or more jobs created per million dollars of and/or new capital investment), this requirement may be waived in part or in whole by the council of the City of Topeka.

(c) Notwithstanding the foregoing, the city council may reduce the amount of exemption under this section by the amount of one percent (1%). The city's pro rata share of the one percent (1%) tax savings may be used for economic development in the City of Topeka pursuant to the provisions of Topeka City Code section § 138-96.

Section 6. That City of Topeka Code § 138-87, Annual renewal, is hereby amended to read as follows:

Annual renewal.

(a) The extent and term of any tax exemption granted shall be subject to annual review by the city council to insure that the ownership and use of the property and any other qualifying criteria of the business for the tax exemption continue to exist. Information justifying the continued exemption will be submitted annually, together with a fee of $100 each to housing and neighborhood development the chief administrative officer or a designee (HND CAO) for review and approval. HND The CAO will advise the council of all annual determinations. HND The CAO determinations may be reversed if the council places the matter on an agenda and so votes.
(b) Upon the failure of any business to fully and timely pay the taxes due as may be required or to provide reports or other information requested by the city and reasonably necessary for the implementation of this article, the city shall either revoke or not renew the authorization of such an exemption.


Section 8. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council DECEMBER 21, 2004.

ATTEST:

James A. McClinton, Mayor

Iris E. Walker, City Clerk