

**RESOLUTION NO. \_\_\_\_\_**

**DATE ADOPTED: \_\_\_\_\_**

**A RESOLUTION AMENDING AND ADOPTING POLICIES AND PROCEDURES FOR  
PROPERTY TAX RELIEF FOR HOMESTEADS PURSUANT TO K.S.A. 79-1613**

**WHEREAS**, the Board of County Commissioners is authorized by K.S.A. 19-101, et seq., to do all acts in relation to the property and concerns of the county necessary to the exercise of its corporate and administrative powers; and

**WHEREAS**, K.S.A. 79-1613 authorizes counties to issue orders providing for relief from property taxes for certain homesteads which are destroyed or substantially destroyed as a direct result of specified events and occurrences, including earthquakes, floods, tornadoes, fires, storms, and events and occurrences declared a disaster by the governor of the state of Kansas; and

**WHEREAS**, the County had previously adopted Resolution No. 103-2014, which is repealed by this resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS that:**

**SECTION 1.** Sedgwick County's Policies and Procedures for implementing K.S.A. 79-1613 are attached hereto and incorporated herein by reference, and shall be incorporated into the Sedgwick County Policies and Procedures Manual.

**SECTION 2.** This resolution repeals and replaces Resolution No. 103-2014.

**SECTION 3.** This resolution shall take place upon its passage and adoption.

[Remainder of this page is intentionally blank]

Commissioners present and voting were:

PETER F. MEITZNER	_____
MICHAEL B. O'DONNELL, II	_____
DAVID T. DENNIS	_____
LACEY D. CRUSE	_____
JAMES M. HOWELL	_____

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY, KANSAS

ATTEST:

\_\_\_\_\_  
KELLY B. ARNOLD, County Clerk

\_\_\_\_\_  
DAVID T. DENNIS, Chairman  
Commissioner, Third District

\_\_\_\_\_  
PETER F. MEITZNER, Chair Pro Tem  
Commissioner, First District

APPROVED AS TO FORM:

\_\_\_\_\_  
JUSTIN M. WAGGONER  
Assistant County Counselor

\_\_\_\_\_  
MICHAEL B. O'DONNELL, II  
Commissioner, Second District

\_\_\_\_\_  
LACEY D. CRUSE  
Commissioner, Fourth District

\_\_\_\_\_  
JAMES M. HOWELL  
Commissioner, Fifth District

# **RELIEF FOR HOMESTEADS DESTROYED OR SUBSTANTIALLY DESTROYED BY NATURAL DISASTERS**

Operating Procedures Implementing K.S.A. 79-1613

## **I. Purpose of policy.**

To conform with state legislation that allows the Owner of a Homestead to be eligible for a property tax abatement or credit if the Homestead is “Destroyed or Substantially Destroyed” as defined herein.

## **II. Definitions.**

- A. “Homestead” means the dwelling, or any part thereof, whether owned or rented, which is occupied by the owner of record (or otherwise “owned as defined in this subsection) as their primary residence and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. A property that a landlord rents to tenant does not qualify as a “Homestead.” “Owned” includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common. “Owned” does not include a successor in interest who becomes the owner after the dwelling has been Destroyed or Substantially Destroyed,
- B. “Destroyed or Destroyed” means damage of any origin sustained by a Homestead as the direct result of (A) an earthquake, flood, tornado, fire or storm or an event or occurrence which the Governor of the State of Kansas has declared a disaster, whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. For purposes of this definition, damage that occurs to a Homestead as a result of groundwater that enters through the dwelling’s foundation is not considered to be the direct result of a flood or other event or occurrence which has been declared a disaster by the Governor.

### **III. Eligibility.**

- A. Applies to a Homestead that is Destroyed or Substantially Destroyed.
- B. An application for relief must be made to the Clerk's Office by the Owner on or before December 20 of the year next succeeding the year for which taxes have been assessed.
- C. The Board of County Commissioners ("BOCC") designates the ability to deny an application for tax relief to the County Manager and the County Manager's designee, without action on the individual application by the BOCC, in the following circumstances:
  - 1, When the application is received after the timeframe indicated in Subsection III.B. of this policy.
  - 2. When the dwelling was not occupied by the owner of record (or someone who fits within the definition of "Owned" within Subsection II.A.) as their primary residence at the time the dwelling was Destroyed or substantially Destroyed."
  - 3, When the dwelling is located within a parcel of real for which a foreclosure lawsuit has been filed with the 18<sup>th</sup> Judicial District Court, including but not limited to property tax foreclosure lawsuits filed by Sedgwick County. In all situations other than those identified within Subsection III.C. of this policy, the BOCC shall determine whether to grant property tax relief.

### **IV. Application process.**

- A. The Owner completes an application for either:
  - 1. An abatement of property taxes levied upon the Homestead.

- a. If the Homestead was destroyed between January 1 and August 15 of the current year and property taxes have not been paid,
2. A credit against property taxes payable by the Owner during any or all of the next three taxable years.
  - a. If the Homestead was destroyed between January 1 and August 15 of the current year and property taxes have been paid, or partially paid.
  - b. If the Homestead was destroyed on or after August 15 of the current year, but prior to January 1 of the next succeeding year.
3. Abatement and credit.
  - a. Abatement of property taxes assessed but not yet paid and credit for assessed property taxes paid.

**V. Staff review process.**

- A. Within 90 days of receipt of an application, the County Clerk and County Appraiser shall direct staff to:
  1. Determine the market value of the property in the years in which the disaster occurred.
  2. Determine the degree of destruction suffered in the disaster in relation to market value.
  3. Determine the property tax levied against the property in the year for which abatement or credit is requested.

4. Determine the amount of property tax for that year remaining unpaid.
5. Calculate the amount of tax relief for each affected tax authority and notify them of the amount and method of providing tax relief.
6. Prepare and submit for BOCC consideration an agenda summary reporting the eligibility of the property for abatement or credit, and the assessed valuation thereof, the amount of tax relief for the County and all affected tax authorities for all applications and to which is attached the applications and proposed order for the BOCC's action. The placement of items on the BOCC agenda would be done pursuant to Sedgwick County Policy No. 1.101 regarding BOCC Meeting Agenda Policy.
7. Notify the applicants and the potentially impacted taxing subdivisions of the staff recommendations on findings and the expected date of BOCC consideration of the application.

B. In the event of a widespread disaster, where additional analysis may be necessary for the County to better assess the budgetary restraints of the County and other taxing subdivisions, County staff may:

1. Elect to have the BOCC agenda items more than 90 days after the receipt of such applications; and

2. Elect to group such applications in order for the BOCC to comprehensively analyze the budgetary restraints and impact of potential tax relief.

**VI. BOCC findings and orders.**

A. When an application is considered by the BOCC, the BOCC would make the following findings with an order:

1. Whether the property is a Homestead.
2. Whether the Homestead was Destroyed or Substantially Destroyed.
3. Assessed valuation of the Homestead.
4. Whether budgetary restraints of the County or affected taxing subdivision(s) preclude granting property tax relief. If the BOCC determines that granting property tax relief would result in budgetary restraints for any taxing subdivision(s), the BOCC would have the option of granting property tax relief for certain taxing subdivision(s), but not granting property tax relief for other taxing subdivision(s).
5. Such other findings as are recommended or advisable,

B. If the Owner is eligible for an abatement or credit the BOCC may:

1. Issue an order providing for the abatement of all or a portion of the property taxes levied against the Homestead.
2. Issue an order providing for a credit against the property taxes not yet paid in any or all of the next succeeding three years.

C. For any order providing for a credit of property taxes against real property, the order could apply relief to the extent authorized by K.S.A. 79- 1613 as specified below:

1. Absent any of the circumstances identified within Section VI.C.2 and 3 of this policy, any credit would apply to the same parcel that suffered the

damage, provided that the applicant would still own such parcel at the time of the order.

2. If, at the time of the order, the applicant would no longer own the parcel that suffered the damage, the applicant would request in writing that any credit would apply to their current Homestead in Sedgwick County owned by applicant, whether such Homestead would be real property or personal property.
  3. If, at the time of the order, the applicant would own both the parcel that suffered the damage and a different current Homestead within Sedgwick County (whether real property or personal property), any property taxes for the parcel that suffered the damage that would be due but remain unpaid at the time of the order would be the first taxes to be paid by the credit. Any remaining credit would apply to the property taxes for the applicant's current Homestead in Sedgwick County.
- D. For any order providing for a credit of property taxes against personal property (e.g., a mobile home not affixed to real property), the order would be drafted to apply to any personal property dwelling currently serving as the applicant's Homestead within Sedgwick County or else any real property currently serving as the applicant's Homestead within Sedgwick County, with the applicant's specific request for the credit indicated in writing.
- E. If the applicant is delinquent on personal property taxes against the personal property dwelling that was Destroyed or Substantially Destroyed Homestead, the amount of such delinquency shall be subtracted from any abatement that may be granted.
- E. If the applicant is delinquent on personal property taxes against the personal property dwelling that was Destroyed or Substantially Destroyed, the amount of such delinquency shall be subtracted from any abatement that may be granted.

- F. The County Clerk and County Treasurer will update their records in accordance with the order.
- G. The County Clerk shall notify the governing body of any taxing subdivisions affected by the order.
- I. Any amendments to orders from the BOCC would require the approval of the BOCC.