

GUIDELINES AND CRITERIA
FOR
PRIMARY EMPLOYER TAX ABATEMENT

April 11, 2017 through April 10, 2019

Ronald E. Spradlin, III
MAYOR

CITY COUNCIL MEMBERS

Harvey McClendon, Mayor Pro Tem
Neil Barr, Council Member
Merlyn Holmes, Council Member
Victor Boyd, Council Member

APPROVED BY KILGORE CITY COUNCIL

April 11, 2017

CITY OF KILGORE
SCHEDULE OF PRIMARY EMPLOYER TAX ABATEMENT EVENTS

- STEP 1 Request for information on Tax Abatement.
- STEP 2 Application for abatement received by City.
- STEP 3 Discussions with applicant about application. Gathering of data to meet City of Kilgore Tax Abatement Guidelines and Criteria to qualify for tax abatement. Written response on findings to Applicant.
- STEP 4 Notification of Public Hearing on designation of a Reinvestment Zone for the purpose of tax abatement:
1. to all taxing entities no later than seven days prior to meeting;
 2. publication in local newspaper no later than seven days prior to meeting.
 3. public posting no later than seven days prior to meeting.
- STEP 5 Public Hearing on designation of a reinvestment zone for the purpose of tax abatement.
- STEP 6 Adoption of Ordinance designating an area a reinvestment zone.
- STEP 7 Notice of City's intent to consider entering into a Tax Abatement Agreement sent to all taxing entities no later than seven days prior to City Commission meeting. Taxing entities must be sent a copy of proposed abatement agreement with notification.
- STEP 8 City Council considers Resolution authorizing the Tax Abatement Agreement and authorizes the Mayor to execute the agreement.
- STEP 9 Applicant begins construction and/or acquisition of property described in abatement.
- STEP 10 Completion of improvements:
1. City inspects the project improvements for compliance with agreement;
 2. Gregg Appraisal District appraises real and personal property for value claimed;
 3. City receives accounting statement regarding total payroll and/or schedule for new jobs created and/or list of capital expenditures on improvements for compliance with agreement;
 4. City issues Certificate of Completion/Compliance.

- STEP 11 Certificate of Completion/Compliance filed with Tax Collector and Chief Appraiser.
- STEP 12 Company must file its annual report to the City by January 31 of each year the Agreement is in place, on jobs, and tax value of improvements. City will then issue its Certificate of Compliance or Non-Compliance to the Gregg or Rusk Appraisal Districts.
- STEP 13 Prior to May 1 of the year following the agreement, (and each year there-after) the company files form titled "Application for Abatement" with the Gregg Appraisal District, 4367 W. Loop 281, Longview, TX 75604, or the Rusk Appraisal District, 107 N. Van Buren Street, Henderson, Texas 75652
- STEP 14 At expiration of agreement or at termination due to non-compliance, the City will issue a Termination of Agreement to company with copies to all taxing entities, Tax Collector and Chief Appraiser, and the State of Texas.

CITY OF KILGORE
GUIDELINES AND CRITERIA

FOR

PRIMARY EMPLOYER TAX ABATEMENT

INTRODUCTION

The City of Kilgore has implemented a Tax Abatement Program for primary employers under the provisions of Property Redevelopment and Tax Abatement Act found in Chapter 312 of the Texas Tax Code. The City has adopted this uniform policy and these Guidelines and Criteria for Tax Abatement. The City is willing to provide abatements to qualifying eligible real property owners who will execute an abatement agreement with the City of Kilgore. Tax abatements will be available for both new facilities and structures and for the expansion or modernization of existing facilities and structures. These Guidelines Criteria for tax abatement will apply only to "primary employers." "Primary employers" are employers who provide "primary jobs," defined in Section 501.002 (12) of the Texas Local Government Code as "A job that is ... available at a company for which the majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy; and" included in the North American Industry Classification System (NAICS) as defined in that Section.

The goal of tax abatement is to provide long-term significant positive impact on this community and to utilize area contractors and work force to the maximum extent feasible by developing, redeveloping and improving real property for use by primary employers.

Tax Abatement will be negotiated with the property owner or lessee within a reinvestment zone. Tax Abatement is available to property owners according to the schedule outlined in Exhibit A. The agreement between the City and the property owner or lessee will exempt from taxation all or part of the increase in value of the real property over its value in the year in which the agreement is executed. It can also exempt from taxation tangible personal property, including inventory or supplies, located on the real property for any year other than personal property that was located on the real property at any time before the period covered by an Abatement agreement.

It is the intent of these Guidelines and Criteria to outline the policy of the City toward tax abatement for primary employers to determine the eligibility criteria of the industry and to outline the process for designating a reinvestment zone. These Guidelines and Criteria further outline the terms of the Tax Abatement Agreement with the primary employer or its lessor and the process for seeking tax abatement from the other taxing entities.

These general Primary Employer Guidelines and Criteria are not intended to be restrictive in any way, and are designed to be used as a guide to any company, industry or individual who is a primary employer interested in Tax Abatement. The Guidelines and Criteria have been approved by the City Council as evidenced by the adoption of Resolution # _____ (which is attached to this document as Exhibit B). These Guidelines and Criteria replace the Guidelines and Criteria that were adopted by Resolution # _____

POLICY

It is the policy of the City of Kilgore to use tax abatement as an effective tool for economic development. Tax abatement will be used to exempt primary employers owning property within the reinvestment zone from paying taxes on improvements on that property according to the schedule outlined in Exhibit A.

Under special circumstances, where major capital investment and/or jobs created will have an extraordinary impact on the local economy, the City Council may negotiate an abatement with special terms and conditions.

ELIGIBILITY PROCEDURES AND GUIDELINES

Abatements

Tax abatements are granted to the owner of real property used by a primary employer to the extent the property's value for that year exceeds its value for the year in which the Tax Abatement Agreement is executed. The abatements are available for both new facilities and structures and for the expansion and modernization of existing facilities and structures.

Abatements are granted for the exemption of personal property located on the real property other than personal property located on the real property at any time before the Primary Employer Tax Abatement Agreement was executed, other than inventory or supplies.

The real property must be located in a re-investment zone as defined below.

Tax abatements are only granted in connection with the creation and maintenance of primary jobs and/or the investment in property improvements as set forth in the Primary Employer Tax Abatement Agreement.

Procedures

Prior to beginning any demolition, rehabilitation, reconstruction or construction, purchase or any improvement to be included in a tax abatement agreement, the owner and/or developer shall first

submit to the City, in writing, a request for tax abatement. The City will then determine the eligibility of the business and the proposed improvements and upon determination of eligibility, the City shall respond to such in writing. As outlined in the Tax Abatement Agreement (discussed in detail later in this document), the company is required to meet all codes and ordinances and acquire all permits required prior to any construction. Contact should be made early in the project for a pre-design and construction meeting with the City's Permitting Team.

Confidentiality. Information that is provided to a taxing unit in connection with an application or request for tax abatement under this chapter and that describes the specific processes or business activities to be conducted or the equipment or other property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the tax abatement agreement is executed. That information in the custody of a taxing unit after the agreement is executed is not confidential under this section.

Guidelines

The following general guidelines will apply in these categories:

New Construction. Any new building should be of quality design and construction. New construction should complement and blend with existing structure. Proper landscaping and lighting is encouraged in order to enhance the overall quality of life for the City. New construction should also provide key pedestrian linkages through construction or repair of sidewalks as appropriate.

General Redevelopment. Any redevelopment activity should take full advantage of the unique architectural characteristics of the area. Redevelopment should be of high quality in order to create an image needed to further attract development. As a minimum, the value of any redevelopment or rehabilitation must equal at least \$500,000 (See Tax Abatement Schedule, Exhibit "A"). The buildings to be rehabilitated must meet all City codes as a minimum standard. Normal maintenance cost alone should not be considered eligible for tax abatement.

Exterior Building Repairs. In a reconstruction project, the business should make every effort to remove all miscellaneous and/or abandoned electrical, plumbing, drainage and other mechanical equipment from the building exterior. New mechanical systems and utility services should be installed in such a way that it will not detract from the building appearance. The contractor should leave all openings in tact where possible and avoid cement blocking or boarding up of windows or doors. Lighting and landscaping of signing should be carefully used to create a pleasant and secure environment throughout the area.

Personal Property. Certain tangible personal property is eligible for abatement if such property enhances the ability of the company to operate in Kilgore. Any personal property located on the site shall be rendered by the company according to the requirements of the Tax Code. The City

recognizes that certain tangible personal property may from time to time be physically located on job sites outside the reinvestment zone. Property of this nature should be identified in Attachment "C" of the Agreement. The taxable status of any personal property abated in an agreement must be within the taxing jurisdiction of the City of Kilgore for the term of the abatement unless such property is sold. Should the status of the personal property change the property owner shall notify the appraisal district.

REINVESTMENT ZONE

General

There are six criteria under which either of these reinvestment zones may be designated. An area may meet any one of these six criteria in order to qualify. They are as follows:

Criteria for Designation.

An area must (as provided in Chapter 312.202 of the Texas Tax Code):

(1) substantially arrest or impair the sound growth of the municipality, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of

1. a substantial number of substandard, slum, deteriorated, or deteriorating structures;
2. the predominance of defective or inadequate sidewalks or streets;
3. faulty size, adequacy, accessibility, or usefulness of lots;
4. unsanitary or unsafe conditions;
5. the deterioration of site or other improvements;
6. tax or special assessment delinquency exceeding the fair value of the land;
7. defective or unusual conditions of title;
8. conditions that endanger life or property by fire or other cause; or,
9. any combination of these factors.

(2) be predominately open and, because of obsolete platting, deterioration of structures of site improvements, or other factors, substantially impair or arrest the sound growth of the municipality; or

(3) be in a federally assisted new community located within a home-rule city or in an area immediately adjacent to the federally assisted new community located within a home-rule city; or

(4) be located wholly within an area which meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318); or

(5) encompass signs, billboards, and other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the City, which the Legislature hereby declares to be a public purpose; or

(6) be reasonably likely, as the result of the designation, to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and contribute to the economic development of the municipality.

Process for Designation

A public hearing must be held prior to the adoption of the ordinance. A notice of public hearing must be published in the newspaper not less than seven days before the date of the hearing. Following the public hearing, the ordinance creating the reinvestment zone may be adopted.

A reinvestment zone must be created by ordinance. The ordinance must describe the boundaries of the zone by metes and bounds or other suitable description and describe the designation of the zone as industrial; such description to be provided by the applicant prior to the designation of the zone.

A reinvestment zone designation expires after five years and may be renewed for an additional five years. However, the term of an existing Tax Abatement Agreement within the zone is not affected. There is no limit as to the size or number of reinvestment zones the City of Kilgore may have. All zones must, however, conform to the comprehensive zoning ordinance of the City. A copy of a proposed Reinvestment Zone Ordinance is attached as Exhibit C.

TAX ABATEMENT AGREEMENT

General

The Tax Abatement Agreement, between the City and the primary employer, is entered into after the creation of a reinvestment zone. Gregg County or Rusk County (depending on the county in which the reinvestment zone is located), and Kilgore College District may enter into an agreement with the company not later than ninety (90) days after the agreement with the City is signed and according to the provisions in Chapter 312.206 of the Texas Tax Code if they so choose.

Provisions of Agreement

An agreement must include the following provisions (as provided in Chapter 312.205 (a) of the Texas Tax Code). Provisions must:

- (1) list the kind, number and location of all proposed improvements of the property, and
- (2) provide for access to and authorize inspection of property by municipal employees to ensure that the improvements or repairs or purchase of personal property were made according to the specifications or conditions of the agreement, and
- (3) limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that the property tax exemptions are in effect, and
- (4) provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs or purchases of personal property as provided by the agreement.
- (5) contain each term agreed to by the owner of the property;
- (6) require the owner of the property to certify annually to the governing body of each taxing unit that the owner is in compliance with each applicable term of the agreement; and
- (7) provide that the governing body of the municipality may cancel or modify the agreement if the property owner fails to comply with the agreement.

An agreement with the primary employer may also include, at the option of the City, the following provisions (as provided by Chapter 312.205 (b) of the Texas Tax Code):

- (1) Improvements or repairs by the municipality to streets, sidewalks, and utility services or facilities associated with the property, except that the Agreement may not provide for lower charges or rates than are made for other services or properties of similar character.
- (2) An economic feasibility study including a detailed list of estimated improvement costs, a description of the methods of financing all estimated costs, and the time when the related costs or monetary obligations are to be incurred.
- (3) A map showing uses and conditions of real property in the reinvestment zone in relation to property descriptions as used by Gregg or Rusk Appraisal District.
- (4) A map showing proposed improvements and uses in the reinvestment zone in relation to property descriptions as used by Gregg or Rusk Appraisal District.

- (5) Proposed changes of the zoning ordinance, the master plan, the map, building codes and city ordinances.
- (6) The creation and maintenance of primary jobs, if the abatement is granted for an Industrial Reinvestment Zone.
- (7) The payment of all taxes and fees to the City and other tax authorities.
- (8) The recapture of all or a portion of property tax revenue lost as a result of the agreement if the owner of the property fails to create all or a portion of the number of new jobs provided by the agreement, if the appraised value of the property subject to the agreement does not attain a value specified in the agreement, or if the owner fails to meet any other performance criteria provided by the agreement, and payment of a penalty or interest, or both, on that recaptured property tax revenue.

Process for the Adoption of the Agreement

Prior to entering into the proposed Agreement, the City must publish notice of consideration of establishing a reinvestment zone for the purpose of entering into a tax abatement agreement no later than seven days prior to entering into the agreement, and a copy of the notice must be delivered, either by registered or certified mail, or in person, to the appropriate county, school and college official prior to the meeting at which the agreement is discussed. The City must also deliver a copy of the proposed Agreement to the presiding officer of the appropriate county and Kilgore College, along with the written notice that the City intends to enter into the Agreement. This proposed Agreement must be delivered, either by registered or certified mail, or in person, seven days prior to the date the City intends to enter into the Agreement.

The City Council may then adopt a Resolution authorizing the Tax Abatement Agreement. A copy of a sample Agreement is attached as Exhibit D.

The Agreement may be modified or terminated by mutual consent of the parties.

CONCLUSION

The City of Kilgore has developed and adopted these Guidelines and Criteria in order to allow any primary employer interested in tax abatement the opportunity to understand the requirements and processes.

These guidelines are subject to and governed by Ch. 312 of the Texas Tax Code and the statutes, rules and regulations of the State of Texas and the United States of America. In case of any conflict between the guidelines and any statute, the statute shall control.

These Guidelines and Criteria are effective for a two-year period and may be renewed or amended after that date using the same procedure for adoption as was followed for this adoption. However, any amendment, alteration or repeal of these Guidelines and Criteria can only become effective upon vote by three-fourths of the members of the City Council.

For reference purposes, an Outline of Procedures for Primary Employer Tax Abatement: Establishing Guidelines and Criteria for Designating Reinvestment Zones and for Entering into Tax Abatement Agreement is included as Exhibit E.

EXHIBIT A

PRIMARY EMPLOYER TAX ABATEMENT SCHEDULE

The tax abatement policy of the City of Kilgore reflects a balance between the revenue needs of local government and the desire to provide incentives for the expansion and relocation of industry. The City agrees to abate ad valorem taxes on real and personal property improvements of qualified businesses in Industrial Reinvestment Zones as follows:

Schedule I

Tax abatement on improvements to real and personal property will be granted to qualified primary employers in the Industrial Reinvestment Zone (i) investing a minimum of \$1,000,000 in capital improvements and (ii) either creating 25 or more full-time jobs or increasing and maintaining payroll by at least \$625,000 annually during the term of this agreement. The abatement will be granted according to the following sliding scale:

<u>YEAR</u>	<u>% OF ADDED VALUE TO BE ABATED</u>
1	100%
2	100%
3	100%
4	75%
5	50%
6	25%
7	0%

Company may substitute additional investment in capital improvements for job creation or payroll increase. Every additional \$625,000 in capital improvements invested in the Reinvestment Zone may substitute for the creation of either 5 full-time jobs or an increase in payroll of \$125,000, excluding payroll for principals of the company.

Note: All jobs created must be full-time jobs located within the City limits of Kilgore, Texas and must be direct labor positions, not including principals of the company. Existing jobs within commuting distance of Kilgore will not be considered as newly created jobs.

Schedule II

Tax abatement on improvements to real and personal property will be granted to qualified primary employers in the Industrial Reinvestment Zone (i) investing a minimum of \$500,000 in capital improvements and (ii) either creating 5-24 full-time jobs or increasing and maintaining payroll by at least \$250,000 annually during the term of this agreement. The abatement will be granted according to the following sliding scale:

<u>YEAR</u>	<u>% OF ADDED VALUE TO BE ABATED</u>
1	50%
2	50%
3	50%
4	37.5%
5	25%
6	12.5%
7	0%

Note: All jobs created must be full-time jobs located within the City limits of Kilgore, Texas and must be direct labor positions, not including principals of the company. Existing jobs within commuting distance of Kilgore will not be considered as newly created jobs.

EXHIBIT B

Resolution by City of Kilgore

RESOLUTION NO. _____

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF
KILGORE, TEXAS, ADOPTING PRIMARY EMPLOYER
GUIDELINES AND CRITERIA FOR TAX ABATEMENT.

WHEREAS, the City Council of the City of Kilgore desires to promote the development/redevelopment of certain contiguous geographic areas within its jurisdiction; and

WHEREAS, The City of Kilgore, is authorized to enter into Tax Abatement Agreements for industrial purposes as authorized in Chapter 312 of the Texas Tax Code, "Property Redevelopment and Tax Abatement Act" (The Act); and

WHEREAS, The Act requires the City of Kilgore to establish guidelines and create criteria for the designation for reinvestment zones and the entering into Tax Abatement Agreements.

NOW, THEREFORE, BE IT RESOLVED that the City of Kilgore declares it is eligible for and intends to participate in a Primary Employer Tax Abatement Program.

FURTHER, BE IT RESOLVED that the City of Kilgore hereby adopts the attached Guidelines and Criteria for primary employer Tax Abatement for use in all Tax Abatement Programs.

FURTHER, BE IT RESOLVED that the City of Kilgore will give consideration to providing any type of economic development incentives not prohibited by state or federal law, including, but not limited to: tax abatements, tax increment financing, state and local retail tax grants and other grants in general, as well as participation in infrastructure development and waiver of fees to primary employers

PASSED, APPROVED, AND ADOPTED this 11th day of April, 2017.

CITY OF KILGORE, TEXAS

Ronald E. Spradlin, III, Mayor

ATTEST:

Deborah Dane, City Clerk

APPROVED AS TO FORM & EFFECT

Robert G. Schleier, Jr., City Attorney

EXHIBIT C

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILGORE, TEXAS, DESIGNATING A CERTAIN AREA AS AN INDUSTRIAL REINVESTMENT ZONE, CITY OF KILGORE, TEXAS, PROVIDING FOR THE ESTABLISHMENT OF AGREEMENTS WITHIN THE ZONE, AND OTHER MATTERS RELATING THERETO; PROVIDING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE FOR THE COMMENCEMENT OF THE REINVESTMENT ZONE AND THIS ORDINANCE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the City Council of the City of Kilgore, Texas, (the "City"), desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by the creation of a Reinvestment Zone, as codified in Chapter 312 of the Texas Tax Code (the "Act"); and

WHEREAS, a hearing before the City Council was set for ___ p.m. on the ___ day of _____, 20____, such date being at least seven (7) days after the date of publication of the notice of such public hearing in a newspaper of general circulation in the City of Kilgore; and

WHEREAS, the City has called a public hearing and published notice of such public hearing, and has properly notified the proper officials of (appropriate County), and Kilgore College as required by the Act; and

WHEREAS, upon such hearing being convened there was presented proper proof and evidence that notices of such hearing had been published and mailed as described above; and

WHEREAS, the City at such hearing invited any interested person, or his attorney, to appear and contend for or against the creation of the Reinvestment Zone, whether all or part of the territory, which is described by a metes and bounds or other suitable description attached hereto as Exhibit "A" and depicted in the drawing attached hereto as Exhibit "B", should be included in such proposed Reinvestment Zone; and

WHEREAS, all owners of property located within the proposed Reinvestment Zone and all other taxing units and other interested persons were given the opportunity at such public hearing to protest the creation of the proposed Reinvestment Zone or the inclusion of their property in such Reinvestment Zone; and

WHEREAS, the proponents of the reinvestment zone offered evidence, both oral and documentary, in favor of all of the foregoing matters relating to the creation of the reinvestment zone, and no opponents of the reinvestment zone appeared to contest creation of the reinvestment zone;

WHEREAS, after considering all testimony and evidence offered at the public hearing, the City Council finds that improvements in the Reinvestment Zone will enhance significantly the value of all taxable real and personal property in the Zone, will be of general benefit to the City of Kilgore and that it will be in the public interest to pass this ordinance creating a Reinvestment Zone;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILGORE, TEXAS:

SECTION 1: That the facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct.

SECTION 2: The City, after conducting such hearing and having heard such evidence and testimony, pursuant to Chapter 312 of the Texas Tax Code (TTC), has made the following findings and determinations based on the evidence and testimony presented to it:

- (a) That the public hearing on adoption of the Reinvestment Zone has been properly called held and conducted and that notice of such hearing has been published as required by law.
- (b) That the City has jurisdiction to hold and conduct this public hearing on the creation of the proposed Reinvestment Zone pursuant to the Act; and
- (c) That creation of the proposed zone with boundaries as described in Exhibits "A" and "B" will result in benefits to the City, its residents and property owners, and to the property, residents and property owners in the reinvestment zone.
- (d) That the Reinvestment Zone, as defined in Exhibits "A" and "B", meets the criteria for the creation of a Reinvestment Zone as set forth in Chapter 312.201 of the Act.

SECTION 3: That the City hereby creates a Reinvestment Zone over the area described by the description in Exhibit "A" attached hereto and depicted in a drawing attached hereto as Exhibit "B" and such Reinvestment Zone shall hereafter be identified as the Industrial Reinvestment Zone, Number __, (Company Name) , City of Kilgore, Texas (the "Zone").

SECTION 4: That operation of the Zone shall commence on _____, 20__, for a period of five years, may be renewed for an additional five years or may terminate sooner by subsequent ordinance.

SECTION 5: That a written Agreement as provided in the Act, with the owners of the property located within the Reinvestment Zone is hereby authorized according to the schedule and term outlined in Exhibit "C", and the written agreement shall provide an exemption from taxation the increased value in the real and/or personal property according to that schedule.

SECTION 6: That if any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

SECTION 7: Pursuant to §312.002, the City Council hereby finds that the terms of the Tax Abatement Agreement to be executed in connection with this Ordinance meets the applicable Guidelines and Criteria for Primary Employer Tax Abatement previously adopted by the City Council.

SECTION 8: That it is hereby officially found, determined, and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the city Hall of the city for the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551 et seq of the Texas Local Government Code, as amended, and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves, and confirms such written notice and the contents and posting thereof.

SECTION 9: That the contents of the notice of public hearing, which hearing was held before the City Council on (date), and the publication of said notices, is hereby ratified, approved and confirmed.

PASSED, APPROVED, and ADOPTED on this the ____day of _____, 20__.

CITY OF KILGORE, TEXAS

Ronald E. Spradlin, III, Mayor

ATTEST:

Deborah Dane, City Clerk

APPROVED AS TO FORM AND EFFECT:

Robert G. Schleier, Jr., City Attorney

EXHIBITS TO ORDINANCE

Metes and Bounds or other description of zone

Map of zone

Tax Abatement Schedule

EXHIBIT D

SAMPLE PRIMARY EMPLOYER TAX ABATEMENT AGREEMENT

STATE OF TEXAS §

COUNTY OF GREGG OR RUSK §

This instrument is a Primary Employer Tax Abatement agreement executed by and between the City of Kilgore, Texas and (Company). Its terms and conditions are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

RECITALS

A. The Texas Property Redevelopment and Tax Abatement Act and all amendments thereto, Chapter 312 of the Texas Tax Code ("Law") provide that the governing body of an incorporated City (such as the City of Kilgore) has the power to create one or more Reinvestment Zones for the abatement of ad valorem taxes assessed against real property or tangible personal property located on the real property provided that certain conditions as detailed in the Law are met.

B. (Company) owns or leases real property ("Real Property") and/or personal property ("Personal Property") located within the city limits or extraterritorial jurisdiction of the City of Kilgore ("City").

C. The City has designated by ordinance the Real Property as Reinvestment Zone No. _____ ("Zone") eligible for the abatement of ad valorem taxes assessed against the Real Property or certain tangible Personal Property located thereon. The Ordinance creating the Zone is included as Attachment "A" with Exhibits "A" and "B" describing and depicting the Zone. By virtue of the City's following the requirements of the Law in creating the Zone, the City and Company now exercise their rights to enter into this instrument, the terms and conditions of which are detailed below and, together with the Attachments and Exhibits, constitute the full and complete agreement ("Agreement") between the City and Company concerning the abatement of ad valorem taxes assessed against the Real Property and Personal Property within the Zone and otherwise payable to the City.

TERMS AND CONDITIONS

1. The first year of tax abatement under this Agreement shall be the year as stated in Section 1 (d) of Attachment "B". All valuations are determined by the Gregg or Rusk Appraisal Districts as of January 1st of each year.

2. The percentage of abatement and properties covered are described in Attachment "B" and Attachment "C" attached hereto and made a part hereof.

3. Company will construct or lease within the Zone improvements to the Real Property and/or purchase certain tangible Personal Property for use in the Zone or on location outside of the Zone so long as the taxable situs of such Personal Property is in the Zone ("Facilities") and prior to completion or purchase by (date) ("Completion Period") spend a minimum of \$_____ in construction and/or Personal Property and/or leasehold improvements. The improvements and personal property will immediately be rendered with Gregg or Rusk Appraisal District.

4. A list of the kind, number and location of all proposed improvements constituting the Facilities are attached to this Agreement as Attachment "C". Employees and/or designated representatives of the City will have access to the Zone during the term of this Agreement to inspect the Facilities to ensure that any improvements and repairs are being made and the terms and conditions of this Agreement are being met. All inspections will be made during normal business hours and will only be conducted in such a manner as to not unreasonably interfere with the construction and/or operation of the Facilities.

5. The use of the Real Property and/or Personal Property is limited to those uses consistent with the general purpose of encouraging development or redevelopment of the Zone during the period that property tax exemptions are in effect. Company will declare the Real Property to be the tax situs of the Personal Property and will render both the Real Property and the Personal Property with Gregg County Appraisal District or Rusk County Appraisal District during each year this agreement is in effect.

6. In the event that Company (a) allows its ad valorem taxes owed the City and the other participating tax entities to become delinquent, or (b) violates any of the terms and conditions of this Agreement by failing to make the improvements and repairs or renditions as provided by this Agreement, or (c) fails to maintain existing jobs and create the new jobs contracted for, this Agreement then may be terminated by the City and the other participating tax entities, and all Taxes otherwise abated by virtue of this Agreement will be recaptured and paid to the City by Company within sixty (60) days of the termination. The determination of a violation shall be in the sole discretion of the City. As an alternative, the City may, in its discretion, not declare the Agreement terminated, but it must certify to the Gregg or Rusk Appraisal District that Company has failed to qualify for an abatement for that tax year.

7. In the event that the Facilities are completed and Company commences operations, but subsequently discontinues operations for any reason excepting fire, explosion or other casualty or accident or natural disaster for a period of one year during the Abatement Period, then this Agreement shall terminate and so shall the abatement of the Taxes for the calendar year during which the Facility no longer operates. The Taxes otherwise abated for that calendar year shall be paid to City within sixty (60) days from the date of the termination.

8. Company must annually, on or before January 31st of each year, certify to the City Council that it is in compliance with the terms of this Agreement as of January 1st of that year. (Attachment F)

9. Should the City determine that Company is in default in the terms and conditions of this Contract, then the City shall notify Company at the address stated below or personal notice.

10. This Agreement is made subject to all conditions, prohibitions, obligations, acts of default, termination, reimbursement and recapture contained in Chapter 312 of the Property Redevelopment and Tax Abatement Act. In case of conflict between this Agreement and §312.204 of the TTC, §312.204 shall control.

11. The City shall have the right to see that the jobs the Company is contracting to create are indeed created and maintained on an annual basis for the duration of the Abatement. The Company will be required to fill out attached Form A and submit it to the City annually. (Sample Job Creation Form A is attached as Attachment "D"). In addition, Company will provide City with Texas Employment Commission Employer's Quarterly Report (Currently known as Form C-3), Form 941 filed with the Internal Revenue Service for each calendar year and a roster of its employees at the end of each year, listing the total number of hours worked by each employee during that year and the positions filled by each employee. Company will also provide City with copies of its tax renditions with the Gregg or Rusk Appraisal District for both Real Property and Personal Property during each year of this agreement.

All jobs created and maintained pursuant to this Agreement must be jobs in Kilgore, Gregg or Rusk County, Texas, must be a new full-time job (or full-time job equivalent) created over and above Company's existing employment base as of the date of this Agreement, and must be a full-time job filled by an employee (or employees), who has or have worked a minimum of 1820 hours during the calendar year. This hourly requirement, in the sole discretion of City, may be prorated if this Agreement is signed after the first of any year. Existing jobs located within commuting distance will not be considered newly created positions.

12. If Company makes additional capital improvements over and above the dollar amount specified in this Agreement, it can receive credit for the additional capital improvements in lieu of creating jobs. The specific dollar amount of capital improvements to take the place of a job created shall be as determined by the Kilgore City Council.

13. Additional Terms and Conditions are contained in Attachment "B".

14. All notices required or contemplated by this Agreement shall be addressed as follows:

If to Company, then to (Company name and address).

If to the City, then to 815 N. Kilgore St, Kilgore, Texas 75662, Attention: City Clerk of the City of Kilgore, Texas.

15. The terms and conditions of this Agreement are binding upon the successors and assigns of both parties hereto. This Agreement cannot be assigned by Company unless permission is first granted by the City, in its sole discretion.

16. This Agreement was approved by the affirmative vote of a majority of the members of the governing body of the City Council of the City of Kilgore at a regularly scheduled meeting on the _____ day of _____, 20____, and _____, Mayor was authorized to sign on behalf of the City of Kilgore, Texas.

17. This Agreement was authorized by Company, and (Name of Company representative and title) of Company was authorized to sign on its behalf.

18. This Agreement is performable in Gregg/Rusk County, Texas.

WITNESS OUR HANDS, this _____ day of _____, 20_____.

(Company Name)

By:_____

Its:_____

CITY OF KILGORE, TEXAS

By:_____

Ronald E. Spradlin, III, Mayor

ATTEST:

Deborah Dane, City Clerk

APPROVED AS TO FORM AND EFFECT:

Robert G. Schleier, Jr., City Attorney

THE STATE OF TEXAS

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared (Name of Company Representative and Title), known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said Corporation.

Given under my hand and seal of office on this _____ day of _____ 20____.

Notary Public, State of Texas

THE STATE OF TEXAS

COUNTY OF GREGG/RUSK

Before me, the undersigned authority, on this day personally appeared Ronald E. Spradlin III, Mayor of the City of Kilgore, a Municipal Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said City of Kilgore.

Given under my hand and seal of office on this _____ day of _____ 20____.

Notary Public, State of Texas

ATTACHMENTS TO TAX ABATEMENT AGREEMENT

Attachment "A"	Ordinance creating Reinvestment Zone
Attachment "B"	Tax Abatement Terms and Conditions
Attachment "C"	List of proposed improvements and/or repairs to be made to the property by Company or tangible personal property to be purchased and located on the property
Attachment "D"	Job Creation Form A
Attachment "E"	Certificate of Compliance
Attachment "F"	Map showing existing uses and conditions of Company's property
Attachment "G"	Map showing proposed improvements and use of Company's property when improvements are completed.

ATTACHMENT "A"

Ordinance creating Reinvestment Zone.

ATTACHMENT "B"

PRIMARY EMPLOYER TAX ABATEMENT TERMS AND CONDITIONS

SECTION 1: CONDITIONS

- a) All values used shall be established by Gregg/Rusk Appraisal District.
- b) The current taxable base value of the property of the Company in the Zone is:

Real Estate: \$ _____
 Personal Property: \$ _____
 Total Base Value: \$ _____*

* Gregg/Rusk Appraisal District values according to 20____ preliminary or certified valuation.

NOTE: Values will be confirmed by Gregg/Rusk Appraisal District prior to execution of Agreement.

c) The City of Kilgore hereby exempts from ad valorem real and personal property taxation for the term set forth, the value in the Zone in excess of the base value stated in Attachment "B" Section 1:b, in accordance with Tax Abatement Terms and Conditions, Attachment "B" Section 2: Schedule of Tax Abatement.

d) The term of the exemption will be for the period of time of ____ years, beginning _____, 20 _____. After the term expires, the full value of the improvements shall be included on the tax roll and assessed appropriately, and this Agreement shall terminate.

e) The Company shall, within the term of this Agreement, construct or cause to be constructed upon Company's property in the Zone certain improvements and/or repairs as set forth in Attachment "C" of this Agreement and/or purchase or cause to be purchased certain tangible personal property including, but not limited to those set forth in Attachment "C" of this agreement. Such Attachment lists the kind, number and location of all proposed improvements and/or repairs to the property of Company in the Zone. Make, model and serial number of tangible personal property should be listed when known. However, it is the intent of the City to abate taxes on all improvements and additions in excess of the Base Value, regardless of whether itemized on Schedule C.

f) The Company agrees to build improvements in accordance with all applicable laws, ordinances, codes, rules, requirements or regulations of the city and any subdivision, agency, or authority thereof, and prior to commencing shall secure all permits, licenses, and authorization required.

g) Upon completion and inspection by the City of the improvements specified in this Agreement, Company shall execute a Certificate of Compliance set out in Attachment "E" of this Agreement. A copy of this shall be sent to each taxing entity involved, the Company and to Gregg/Rusk Appraisal District.

h) Should Company fail to make the improvements and/or repairs and/or personal property purchases as provided in this Agreement, then all real and personal property tax revenue lost by the City of Kilgore from Company's property in the zone due to this Agreement shall be forthwith paid to the City of Kilgore by Company, and this agreement shall become void.

i) A map showing existing uses and conditions of Company's property within the Zone is attached as Attachment "F" and incorporated herein by reference.

j) A map showing proposed improvements and uses to Company's property within the Zone is attached as Attachment "G" and incorporated herein by reference.

k) The Company agrees to create _____ new full-time jobs over and above its current base employment prior to (____date____) . Company's current base employment is _____. In the alternative, Company agrees to increase and maintain its payroll over and above its existing payroll of \$_____ by \$_____ annually during the term of this Agreement. Should Company fail to create and maintain full-time jobs during any calendar year of this Agreement or increase its payroll by \$_____, then City will not certify to Gregg/Rusk Appraisal District that Company is entitled to the abatement for the next calendar year. City may give Company credit during the first year of this Agreement for full-time jobs even though employees may not have worked the required number of hours. However, if Company fails to create the agreed upon number of full-time jobs during each calendar year, but makes additional capital improvements over and above those listed in Attachment "C" attached hereto, it can receive credit as if it had created new jobs. The amount of credit allowed will be determined by the City Council.

SECTION 2: SCHEDULE OF PRIMARY EMPLOYER
TAX ABATEMENT

The City agrees to abate ad valorem taxes on real and personal property improvements of qualified businesses in Industrial Reinvestment Zones as follows:

Schedule I

Tax abatement on improvements to real and personal property will be granted to qualified businesses in the Industrial Reinvestment Zone (i) investing a minimum of \$1,000,000 in capital improvements and (ii) either creating 25 or more full-time jobs or increasing and maintaining payroll by at least \$625,000 annually during the term of this agreement. The abatement will be granted according to the following sliding scale:

<u>YEAR</u>	<u>% OF ADDED VALUE TO BE ABATED</u>
1	100%
2	100%
3	100%
4	75%
5	50%
6	25%
7	0%

Company may substitute additional investment in capital improvements for job creation or payroll increase. Every additional \$625,000 in capital improvements invested in the Reinvestment Zone may substitute for the creation of either 5 full-time jobs or an increase in payroll of \$125,000, excluding payroll for principals of company.

Note: All jobs created must be full-time jobs located within the City limits of Kilgore, Texas and must be direct labor positions, not including principals of the company. Existing jobs within commuting distance of Kilgore will not be considered as newly created jobs.

Schedule II

Tax abatement on improvements to real and personal property will be granted to qualified businesses in the industrial reinvestment zone (i) investing a minimum of \$500,000 in capital improvements and (ii) either creating 5-24 full-time jobs or increasing and maintaining payroll by at least \$250,000 annually during the term of this agreement. The abatement will be granted according to the following sliding scale:

<u>YEAR</u>	<u>% OF ADDED VALUE TO BE ABATED</u>
1	50%
2	50%
3	50%
4	37.5%
5	25%
6	12.5%
7	0%

Note: All jobs created must be full-time jobs located within the City limits of Kilgore, Texas and must be direct labor positions, not including principals of the company. Existing jobs within commuting distance of Kilgore will not be considered as newly created jobs.

ATTACHMENT "C"

List of proposed improvements and/or repairs to be made to the property by Company or tangible personal property to be purchased and located on the property.

ATTACHMENT "D"

JOB CREATION FORM A
Prepared for the City of Kilgore by Company

±

PERMANENT FULL TIME JOBS

1. Current total number of employees as of December 31, 20__:

2. Total employed on effective date of Primary Employer Tax Abatement: ____

3. Total number of jobs created as of December 31, 20__:
(Difference between lines 1 and 2):

This form was completed by:

Printed Name:

Title: _____

Signature: _____

—

Date: _____

ATTACHMENT "E"

CERTIFICATE OF COMPLIANCE

WITH PRIMARY EMPLOYER TAX ABATEMENT AGREEMENT
BETWEEN THE CITY OF KILGORE AND _____,

DATED _____.

IN REINVESTMENT ZONE NO. (#)

CITY OF KILGORE, TEXAS

THE STATE OF TEXAS

COUNTY OF GREGG



(company name) (the "Company") hereby certifies that:

(1) the real and/or personal property improvements on the property, described on the above referenced Agreement have been completed and that all facilities and improvements have been constructed or acquired pursuant to said Agreement.

(2) the jobs to be created for this year of the Agreement have been created and maintained including the base jobs, (or) the additional payroll has been added to the base payroll and maintained for this year of the Agreement.

(3) all ad valorem taxes have been paid to City and all other taxing entities.

(4) all other terms and conditions of this Agreement have been complied with.



(company name) (the "Company") hereby certifies that:

The Company is not in compliance with its tax abatement agreement.

Current total employment is: _____ or current payroll is
\$_____.

Signed the _____ day of _____, 20 _____.

(Signature of Company Representative)

(Position/Title)

ATTACHMENT "F"

Map showing existing uses and conditions of Company's property.

ATTACHMENT "G"

Map showing proposed improvements and use of
Company's property when improvements are completed.

EXHIBIT E
For Guidelines and Criteria Only

AN OUTLINE
of
PROCEDURES FOR TAX ABATEMENT
(A Synopsis of Chapter 312 Texas Tax Code)

This is a general outline of the law that provides for the following:

- I. Establishing Guidelines and Criteria for Tax Abatement;
- II. Designating Reinvestment Zones;
- III. Entering into Tax Abatement Agreements.

The guidelines and criteria for tax abatement adopted by a taxing entity may be more restrictive in nature than as provided in the law. This outline is for information purposes only.

I. Tax Abatement - General

A. City, County and/or College District may enter into program for industrial tax abatement.

1. Each entity must act independently and designate the type of industrial tax abatement.

2. The entity initiating a tax abatement agreement must notify the other taxing entities and each entity may then adopt the identical abatement agreement, another agreement, or no abatement agreement.

B. Taxes can be abated, through an agreement, for up to ten years for "...all or part of the increase in value of the property over its value in the year in which the agreement is executed."

II. Establish Guidelines and Criteria Governing Tax Abatement Agreement.

A. City, County, and College District are all required to prepare and adopt guidelines and criteria governing tax abatement.

B. Guidelines are effective for two (2) years and may be amended or appealed only by a three-fourths majority vote of the respective governing body.

III. Adopt Resolution

- A. Resolution should express intent to become eligible to participate in a tax abatement program.
- B. City, County and Kilgore College are all required to adopt a resolution.
- C. The Resolution should also be used to adopt the proposed Guidelines and Criteria.
- D. No public hearing required.

IV. Designate a Reinvestment Zone

- A. A reinvestment zone can be designated for industrial tax abatement by a City. There is no provision for the County or School to participate in the designation of the reinvestment zone within a City.
- B. Chapter 312.202 of the Texas Tax Code outlines the criteria under which a reinvestment zone may be designated. An area may meet any one of the criteria to be qualified.
- C. A reinvestment zone designation expires after five (5) years and may be renewed for an additional five (5) years. The term of an existing abatement agreement is not affected.
- D. There is no limit as to the size or number of reinvestment zones a City may have. They must, however, conform to the comprehensive zoning ordinance of the City.
- E. Creation of Reinvestment Zone by Ordinance.
 - 1. The Ordinance must describe the boundaries of the reinvestment zone.
 - 2. The Ordinance must describe the eligibility of the zone for residential or commercial-industrial tax abatement.
 - 3. A public hearing must be held prior to adoption.
 - 4. A Notice of Hearing must be published in the newspaper not less than seven (7) days before the date of the hearing, with notice to each taxing entity at the same time.

5. Following the public hearing the ordinance may be adopted.
6. There are no provisions for involvement of the County, School or College in designation of a reinvestment zone other than providing them notice.

V. Tax Abatement Agreement

- A. The agreement is entered into between City and Company.
- B. The County and College may enter into an agreement, which may not necessarily be the same as the City's or they may elect not to abate the taxes.
- C. The agreement must contain specific language outlined in Section 312.204 of the Tax Code; and may include additional information contained in Section 312.205 (b) of the Tax Code.
- D. Process for Adoption of Agreement
 1. The City must deliver to presiding officer of county, school and college a copy of the proposed agreement and written notice that city intends to enter into the agreement. It must be delivered (by mail - registered or certified, or in person) seven days prior to the date the City intends to enter into the agreement.
 2. The City considers a Resolution authorizing the Tax Abatement Agreement.
- E. It is assumed that the public hearing for the Reinvestment Zone designation, adoption of the Ordinance designating the Reinvestment Zone and adoption of a Resolution authorizing the Tax Abatement Agreement can be held at the same meeting.