

CITY OF GILMER
GUIDELINES AND CRITERIA
FOR TAX ABATEMENT

LIST OF EXHIBITS

- A. Tax Abatement Schedule
- B. Resolution adopting Guidelines and Criteria for Tax Abatement
- C. Ordinance designating Reinvestment Zone
 - C-1 Metes and Bounds description of Reinvestment Zone
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 - C-3 Tax Abatement Schedule
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CITY OF GILMER
GUIDELINES AND CRITERIA
FOR
TAX ABATEMENT

INTRODUCTION

A city, pursuant to state law, is authorized to offer abatement of city ad valorem taxes to industries and commercial enterprises within the city limits. The tax abatements are granted to real property owners who execute a tax abatement agreement with the city. The purpose of the tax abatement is to encourage the growth and establishment of industry and commercial enterprise in the city. Growth is measured by both an increase in capital expenditures and an increase in workforce.

Tax Abatement will be negotiated with the property owner 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 Business 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 limited to manufacturing equipment.

It is the intent of these Guidelines and Criteria to outline the policy of the City toward tax abatement 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 business and the process for seeking tax abatements from the other taxing entities.

These general Guidelines and Criteria are not intended to be restrictive in any way, and are designed to be used as a guide to any business, industry or individual 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).

POLICY

It is the policy of the City of Gilmer to use tax abatement as an effective tool for economic development. Tax Abatement will be used to exempt owners of property within the Reinvestment Zone from paying taxes on improvements on that property according to the schedule outlined in Exhibit A.

State law require that a city passes a tax abatement policy prior to extending tax abatement.

The city's priority is to extend tax abatement to primary employers. A primary employer is one who builds the city's economic base by selling their products outside of the city.

The City's goal in providing tax abatements is to create additional jobs within the city. Abatements, however, can be used when the abatement is necessary to retain existing jobs.

The city strives for efficiency in processing applications for tax abatement. It is understood that a long decision-making process will discourage business that might otherwise be interested in expanding in Gilmer.

This tax abatement policy is valid for three years time and replaces any previous tax abatement policy.

ELIGIBILITY PROCEDURES AND GUIDELINES

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 business 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 with City's Building Inspector.

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.

Qualifications. As a minimum, one of the following three criteria must be met:

1. Capital Expenditures of at least \$500,000;
2. The creation of fifteen full-time jobs, or;
3. An annual payroll increase of \$250,000.

Real Property. For real property, the value of the property which has increased in market value because of the development, re-development or improvements specified in the abatement contract.

Personal Property. For personal property, the market value of the personal property at the location, other than inventory and supplies, purchased with new capital identified in the tax abatement contract. Personal property located at the site before the period covered by the agreement is not eligible for tax abatement.

REINVESTMENT ZONE

General. There are two types of zones that may be created for tax abatement. They are Residential Reinvestment Zones and Commercial/Industrial Reinvestment Zones. Each Zone must have one of these designations.

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

Criteria for Designation.

An area must (as provided in Chapter 312 of Texas Tax Code):

- (1) substantially impair or arrest the sound growth of a city or town, 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 by reason of the presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures; predominance of defective or inadequate sidewalk or street layout; faulty lot layout in relation to size, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; the existence of conditions that endanger life or property by fire or other cause; or any combination of these factors or conditions; or
- (2) be predominately open and, because of obsolete platting or deterioration of structures of site improvements, or other factors, substantially impair or arrest the sound growth of the City; 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; 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; or

(5) encompass signs, billboards, and other outdoor advertising structures designated by the City Council 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 designated a local or state-federal enterprise zone under the Texas Enterprise Zone Act; or

(7) 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 City.

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 and describe the designation of the Zone as residential or industrial/commercial; 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 Gilmer 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 business, is entered into after the creation of a Reinvestment Zone. Upshur County may enter into an agreement with the business within ninety (90) days after the agreement with the City is signed 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 purposes of encouraging development or redevelopment of the Zone during the period that the property tax exemptions are in effect, and
- (4) provide for recapture of 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.

An Agreement with the business 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 City 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 Development 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 the Upshur County Appraisal District.
- (4) A map showing proposed improvements and uses in the Reinvestment Zone in relation to property descriptions as used by the Upshur County Appraisal District.
- (5) Proposed changes of the zoning ordinance, master plan, map, building codes and City ordinances.

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, 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 Upshur County, along with 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, attached as Exhibit D, authorizing the Tax Abatement Agreement. A copy of a sample Tax Abatement Agreement is attached as Exhibit E.

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

CONCLUSION

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

These Guidelines are subject to and governed by Chapter 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 three 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, Chapter 312.204 of the Texas Tax Code is attached as Exhibit F.

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

For reference purposes, a Commercial/Industrial Tax Abatement Application is included as Exhibit H.

EXHIBIT A: TAX ABATEMENT SCHEDULES

The tax abatement policy of the City of Gilmer 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 Commercial/Industrial Reinvestment Zones as follows:

Tax Abatement Schedule I

Capital Improvements		Full-Time Job Creation		Payroll Increase
\$500,000	and	15 or more	or	\$250,000 Annually
\$750,000	and	5 or more	or	\$80,000 Annually
Abatement Amount				
Year			Percentage	
1,2, and 3			100%	
4			75%	
5			50%	
6			25%	
7			0%	

Tax Abatement Schedule II

Capital Improvements		Full-Time Job Creation		Payroll Increase
\$500,000	and	5-15 Jobs	or	\$150,000 Annually
Abatement Amount				
Year			Percentage	
1,2, and 3			50%	
4			37.5%	
5			25%	
6			12.5%	
7			0%	

EXHIBIT B

RESOLUTION NO. _____

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

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

WHEREAS, the City of Gilmer is authorized to enter into Tax Abatement Agreements for commercial / 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 Gilmer to establish guidelines and create criteria for the designation of Reinvestment Zones and the entering into Tax Abatement Agreements.

NOW, THEREFORE, BE IT RESOLVED that the City of Gilmer does hereby adopt the attached guidelines and criteria for tax abatement.

PASSED, APPROVED, AND ADOPTED this _____ day of _____,
20__.

CITY OF GILMER, TEXAS

R.D. (Buck) Cross, MAYOR

ATTEST:

Kathy Davidson, CITY SECRETARY

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GILMER, TEXAS, DESIGNATING A CERTAIN AREA AS A COMMERCIAL/INDUSTRIAL REINVESTMENT ZONE, CITY OF GILMER, 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 Gilmer, 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 Gilmer; and

WHEREAS, the City has called a public hearing and published noticed of such public hearing, and has properly notified the proper officials of Upshur County, and Gilmer Independent School District; 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. The boundaries of the proposed Reinvestment Zone, whether all or part of the territory, which is described by a metes and bounds description attached hereto as Exhibit C-1 and depicted in the drawing attached hereto as Exhibit C-2, 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

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 property in the Zone, that it will be of general benefit to the City of Gilmer 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 GILMER, 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, 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 herein 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 herein in Exhibits C-1 and C-2, meets the criteria for the creation of a Reinvestment Zone as set forth in Chapter 312.202 of the Act in that:
 - (1) It is a contiguous geographic area located wholly within the corporate limits of the City.
 - (2) The area will reasonably be likely, as a 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 that would contribute to the economic development of the City.

- (3) No part of the property in the Reinvestment Zone is owned or leased by a member of the governing body of the City or town or by a member of zoning or planning board or commission of the City.
- (4) Improvements in the Reinvestment Zone will enhance significantly the value of all taxable real property in the Reinvestment Zone.

SECTION 3: That the City hereby creates a Reinvestment Zone over the area described by the description attached hereto and depicted in a drawing attached hereto and such Reinvestment Zone shall hereafter be identified as the Commercial/Industrial Reinvestment Zone, Number _____, _____, City of Gilmer, 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-3, and the written agreement shall provide an exemption from taxation the increased value of 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: 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, Texas Government Code, 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 8: That the contents of the notice of public hearing, which hearing was held before the City Council on _____, and the publication of said notices, are hereby ratified, approved and confirmed.

PASSED, APPROVED AND ADOPTED on the ___ day of _____ 20__.

CITY OF GILMER, TEXAS

R.D. (Buck) Cross, MAYOR

ATTEST:

Kathy Davidson, CITY SECRETARY

EXHIBITS TO ORDINANCE

- C-1 Metes and Bounds description of zone
- C-2 Map of Zone
- C-3 Tax Abatement Schedule

EXHIBIT C-1

METES AND BOUNDS DESCRIPTION OF
REINVESTMENT ZONE

EXHIBIT C-2

DRAWING (PLAT) OF
REINVESTMENT ZONE

EXHIBIT C-3: TAX ABATEMENT SCHEDULES

The tax abatement policy of the City of Gilmer 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 Commercial/Industrial Reinvestment Zones as follows:

Tax Abatement Schedule I

Capital Improvements		Full-Time Job Creation		Payroll Increase
\$500,000	and	15 or more	or	\$250,000 Annually
\$750,000	and	5 or more	or	\$80,000 Annually
Abatement Amount				
Year			Percentage	
1,2, and 3			100%	
4			75%	
5			50%	
6			25%	
7			0%	

Tax Abatement Schedule II

Capital Improvements		Full-Time Job Creation		Payroll Increase
\$500,000	and	5-15 Jobs	or	\$150,000 Annually
Abatement Amount				
Year			Percentage	
1,2, and 3			50%	
4			37.5%	
5			25%	
6			12.5%	
7			0%	

EXHIBIT D

RESOLUTION NO. _____

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF GILMER, TEXAS, AUTHORIZING AN AGREEMENT FOR COMMERCIAL/INDUSTRIAL TAX ABATEMENT FOR REINVESTMENT ZONE NO. _____

WHEREAS, the City Council of the City of Gilmer did previously approve and adopt Tax Abatement Guidelines and Criteria; and

WHEREAS, the City Council has established a Commercial/Industrial Reinvestment Zone by Ordinance No. _____ for _____

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Gilmer, Texas, does hereby authorize entering into a Commercial/Industrial Tax Abatement Agreement with _____, Reinvestment Zone No. _____.

FURTHER, BE IT RESOLVED that through the adoption of this Resolution the Mayor of the City of Gilmer is authorized to execute the Commercial/Industrial Tax Abatement Agreement as attached hereto.

PASSED, APPROVED AND ADOPTED this _____ day of _____ 20____

CITY OF GILMER, TEXAS

R.D. (Buck Cross), MAYOR

ATTEST:

Kathy Davidson, CITY SECRETARY

EXHIBIT E
SAMPLE TAX ABATEMENT AGREEMENT

STATE OF TEXAS

COUNTY OF UPSHUR

This instrument is an Abatement agreement executed by and between the City of Gilmer, Texas and (company). Its terms and conditions are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

RECITALS

1. The Texas Property Redevelopment and Tax Abatement Act and all amendments thereto (“Law”) provide that the governing body of an incorporated City (such as the City of Gilmer) has the power to create one or more Reinvestment Zones for the abatement of ad valorem taxes assessed against real and/or personal property provided that certain conditions as detailed in the law are met.

2. _____ (“Company”) owns real property (“Real Property”) and/or personal property (“Personal Property”) located within the taxing jurisdiction of the City of Gilmer (“City”).

3. 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 Exhibits C with Exhibits C-1 and C-2 describing and depicting the Zone. By virtue of the City 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, with the 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 following the year in which it is executed unless otherwise noted. All valuations are determined by the Upshur County Appraisal Districts as of January 1st of each year.

(2) The percentage of abatement on properties covered are described in Exhibit E attached hereto and made a part hereof.

(3) Company will construct within the Zone improvements and/or purchase certain tangible personal property, limited to manufacturing equipment, for use in the

Zone, and prior to completion or purchase by _____ (“Completion Period”) spend a minimum of \$ _____ in construction cost and/or a minimum of \$ _____ in personal property costs.

(4) A list of the kind, number and location of all proposed improvements constituting the Facilities are attached to this Agreement as Exhibit E-5. 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 determine if the terms and conditions of the 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. All inspections will be made with one or more representatives of Company, and in accordance with its safety standards.

(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 the Property Tax Abatements 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 Upshur 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 to become delinquent and fails to timely and properly follow the legal procedures for their protests and/or contests; or fails to cure during the Cure Period (as hereafter provided), 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, this Agreement then may be terminated by the City, 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. As an alternative, the City may in its discretion, not declare the Agreement terminated, but it must certify to the Upshur County Appraisal District that the company has failed to qualify for an abatement for that tax year.

(7) In the event that the Facilities are completed and Company begins 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 February 15th 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.

(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 of such claimed default, and if such is not cured within sixty (60) days from the

date of such notice (“Cure Period”), this Agreement may be terminated by the City. Any notice of default shall be in writing and shall be given by personal delivery or by certified mail, return receipt requested. In the event the notice is effected by personal delivery, the date and hour of actual delivery shall be the time and date of such notice to Company. Absent a postal strike or other stoppage of the mails, in the event of delivery of notice by registered or certified United States mail, the date and hour following 48 hours after the date and hour at which the sealed envelope containing the notice is deposited in the United States mail, properly addressed, and with postage prepaid, shall be the time and date of such notice to Company.

(10) This Agreement is made subject to all conditions, prohibitions, obligations, acts of default, termination, reimbursement and recapture contained in Section 312.204 of the Property Redevelopment and Tax Abatement Act, a copy of which is marked Exhibit F attached hereto and made a part hereof.

(11) All notices required or contemplated by this Agreement shall be addressed as follows:

If to Company, then to _____
_____.

If to the City, then to P.O. Box 760, Gilmer, Texas, 75644, Attention: Mayor of the City of Gilmer, Texas.

(12) 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.

(13) 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 Gilmer at a regularly scheduled meeting on the _____ day of _____ 20____, and the Mayor was authorized to sign on behalf of the City of Gilmer, Texas.

(14) This Agreement was authorized by Company, and _____ of Company was authorized to sign on its behalf.

(15) This Agreement is performable in Upshur County, Texas.

(16) All values used shall be established by Upshur County Appraisal District.

(17) The current taxable value of the property of Company in the Zone is:

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

NOTE: Values will be confirmed by the Upshur County Appraisal District prior to execution of Agreement.

(18) The City of Gilmer hereby exempts from ad valorem real and personal property taxation for the term set forth, the value in the Zone in excess of that stated in (2) above, in accordance with Tax Abatement Agreement Exhibit E-1, Tax Abatement Schedule.

(19) The term of the exemption will be for a period of six (6) years, beginning January 1, 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.

(20) 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 Exhibit E-2 of this Agreement and/or purchase or cause to be purchased certain tangible personal property as set forth in Exhibit E-2 of this agreement. Such Exhibit 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 Exhibit E-2.

(21) 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.

(22) Upon completion and inspection by the City of the improvements specified in this Agreement, Company and City shall execute a Certificate of Compliance set out in Exhibit E-3 of this Agreement. A copy of this shall be sent to each taxing entity involved, the Company and to the Upshur County Appraisal District.

(23) 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 Gilmer from Company's property in the Zone due to this Agreement shall be forthwith paid to the City of Gilmer by Company, and this Agreement shall become void.

(24) A map showing existing uses and conditions of Company's property within the Zone is attached as Exhibit E-4 and incorporated herein by reference.

(25) A map showing proposed improvements and uses to Company's property within the Zone is attached as Exhibit E-5 and incorporated herein by reference.

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

CITY OF GILMER, TEXAS

R.D. (Buck Cross), MAYOR

ATTEST:

Kathy Davidson, CITY SECRETARY

“Company”

By _____

Title _____

THE STATE OF TEXAS

COUNTY OF UPSHUR

Before me, the undersigned authority, on this day personally appeared _____, _____, _____, a 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 herein stated and as the act and deed of said Corporation.

Given under my hand and seal of office on this the _____ day of _____, 20__.

NOTARY PUBLIC IN AND FOR THE
STATE OF TEXAS

THE STATE OF TEXAS

COUNTY OF UPSHUR

Before me the undersigned authority on this day personally appeared _____, Mayor of the City of Gilmer, a Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledge 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 the _____ day of _____, 20__.

NOTARY PUBLIC IN AND FOR THE
STATE OF TEXAS

EXHIBIT A: TAX ABATEMENT SCHEDULES

The tax abatement policy of the City of Gilmer 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 Commercial/Industrial Reinvestment Zones as follows:

Tax Abatement Schedule I

Capital Improvements		Full-Time Job Creation		Payroll Increase
\$500,000	and	15 or more	or	\$250,000 Annually
\$750,000	and	5 or more	or	\$80,000 Annually
Abatement Amount				
Year			Percentage	
1,2, and 3			100%	
4			75%	
5			50%	
6			25%	
7			0%	

Tax Abatement Schedule II

Capital Improvements		Full-Time Job Creation		Payroll Increase
\$500,000	and	5-15 Jobs	or	\$150,000 Annually
Abatement Amount				
Year			Percentage	
1,2, and 3			50%	
4			37.5%	
5			25%	
6			12.5%	
7			0%	

EXHIBIT E-2

(List of personal property, limited to manufacturing equipment)

EXHIBIT E-3

CERTIFICATE OF COMPLIANCE

AGREEMENT FOR DEVELOPMENT AND TAX ABATEMENT

WITH _____

IN REINVESTMENT ZONE NO. _____, CITY OF GILMER

FOR COMMERCIAL / INDUSTRIAL TAX ABATEMENT

CITY OF GILMER, TEXAS

THE STATE OF TEXAS:

COUNTY OF UPSHUR:

_____(The “Company”) hereby certifies that the real and/or personal property improvements on the property, described on “Attachment C”, as attached hereto, as called for in the above referenced Agreement, have been completed and that all facilities and improvements have been constructed or acquired pursuant to said Agreement.

Signed the _____ day of _____, 20 _____.

Name, Title

The above described improvements have been accepted by the City Gilmer, Texas as being in compliance with the above referenced Agreement, and that pursuant to said Agreement the exemption from taxation shall commence on _____ and the “base value” for the purposes of determining the taxable value of the Premises shall be the value of the property as established in the said Agreement

Signed this _____ day of _____, 20 _____.

CODE ENFORCEMENT OFFICER
CITY OF GILMER, TEXAS

EXHIBIT E-4

MAP SHOWING EXISTING USES AND
CONDITIONS OF REAL PROPERTY

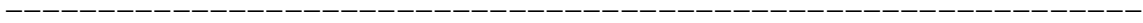


EXHIBIT E-5

MAP/LIST OF PROPOSED
IMPROVEMENTS AND USES

ATTACHMENT D
312.204 OF THE PROPERTY AND REDEVELOPMENT
TAX ABATEMENT ACT

(a) The governing body of a municipality eligible to enter into Tax Abatement Agreements under Section 312.002 may agree in writing with the owner of taxable real property that is located in a Reinvestment Zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or of tangible personal property located on the real property, or both, for a period not to exceed 10 years, subject to the rights of holders of outstanding bonds of the municipality, on the condition that the owner of the property make specific improvements or repairs to the property. An agreement may provide for the exemption of the real property in each year covered by the agreement only to the extent its value for that year exceeds its value for the year in which the agreement is executed. An Agreement may provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the municipality, and other than inventory or supplies. In a municipality that has a comprehensive zoning ordinance, an improvement, repair, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.

(b) The agreements made with the owners of property in a reinvestment zone must contain identical terms for the portion of the value of the property that is to be exempt and the duration of the exemption. For purposes of this subsection, if agreements made with the owners of property in a reinvestment zone before September 1, 1989, exceed 10 years in duration, agreements made with owners of property in the zone on or after that date must have a duration of 10 years.

(c) The property subject to an agreement made under this section may be located in the extraterritorial jurisdiction of the municipality. In that event, the agreement applies to taxes of the municipality if the municipality annexes the property during the period specified in the agreement.

(d) Property that is in a Reinvestment Zone and that is owned or leased by a member of the governing body of the municipality or by a member of a zoning or planning board or commission of the municipality is excluded from property tax abatement or tax increment financing.

(e) The governing body of a municipality eligible to enter into tax abatement agreements under Section 312.002 may agree in writing with the owner or lessee of real property that is located in a Reinvestment Zone to exempt from taxation for a period not to exceed 10 years a portion of the value of the real property or of personal property, or

both, located within the zone and owned or leased by a certificated air carrier, on the condition that the certificated air carrier make specific real property improvements or lease for a term of 10 years or more real property improvements located within the Reinvestment Zone. An agreement may provide for the exemption of the real property in each year covered by the agreement to the extent its value for that year exceeds its value for the year in which the agreement is executed. An agreement may provide for the exemption of the personal property owned or leased by a certificated air carrier located within the Reinvestment Zone in each year covered by the agreement other than specific personal property that was located within the Reinvestment Zone at any time before the period covered by the agreement with the municipality.

(f) The agreements made with owners of property in an enterprise zone that is also designated as a Reinvestment Zone are not required to contain identical terms for the portion of the value of property that is to be exempt and the duration of the agreement.

Amended by 1989 Tex. Laws, P. 184, ch. 2, Sec 14.10 and p. 1659, ch. 486, sec. 1 and p. 4685, ch. 1137, Secs. 6 and 7; amended by 1995 Tex. Laws, p. 4954, ch. 985, Sec. 13.

NOTE:

Neither Local Government Code Section 380.001 nor Property Tax Code Section 312.204 authorizes a municipality to abate delinquent taxes owed by a taxpayer who participates in the municipality's enterprise zone. Article III, Section 55, Texas Constitution, expressly forbids the abatement of delinquent taxes. Tex. Att'y Gen. LO-95-090 (1995).

SECTION 312.2041. Notice of Tax Abatement Agreement to Other Taxing Units.

(a) Not later than the seventh day before the date on which the municipality enters into an agreement under Section 312.204 or 312.211, the governing body of the municipality or a designated officer or employee of the municipality shall deliver to the presiding officer of the governing body of each other taxing unit in which the property to be subject to the agreement is located a written notice that the municipality intends to enter into the agreement. The notice must include a copy of the proposed agreements.

(b) A notice is presumed delivered when placed in the mail postage paid and properly addressed to the appropriated presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

(c) Failure to deliver the notice does not affect the validity of the agreement.

Added by 1989 Tex. Law, p. 185, ch. 2, sec. 14:11; amended by 1989 Tex. Laws, p. 4685, ch. 1137, Sec. 8; amended by SB 1596, 75th Tex, Leg., 1997, eff. September 1, 1997, and by HB 1239, 75th Tex. Leg., 1997, eff. September 1, 1997.

EXHIBIT G
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 taxing entity may be more restrictive in nature than as provided in the law. This outline is for information purpose only.

- I. Tax Abatement-General
 - A. City, County and/or School or College Districts may enter into program for residential and/or commercial/industrial Tax Abatement.
 1. Each entity must act independently and designate the type abatement-residential or commercial/industrial.
 2. The entity initiating a Tax Abatement Agreement must notify the other taxing entities and each entity may then adopt the identical Abatement 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, School and College Districts are all required to prepare and adopt guidelines and criteria governing Tax Abatements.

- 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 School Districts (does apply to 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 Residential or Commercial/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, School and College may enter into an Agreement, which must 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 312.206 (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.

EXHIBIT H

COMMERCIAL / INDUSTRIAL TAX ABATEMENT
APPLICATION

Name of Company _____

Address _____
(Street) (Mailing, if different)

City _____ State _____ Zip _____

Phone _____

Contact Person _____

I. List kind, number and location of all proposed improvements of the property, both real and personal (attach an additional sheet if necessary):

II. Attach to this application:

(A) a map showing current uses and conditions of real property;

(B) a map showing proposed improvements and uses.

Use a copy of the Upshur Appraisal District map of your property as the base map for your property.

III. Attach a metes and bounds description of the property.

PAGE TWO
TAX ABATEMENT APPLICATION

The tax abatement policy of the City of Gilmer 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 Commercial/Industrial Reinvestment Zones as follows:

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Tax Abatement Schedule II

Capital Improvements		Full-Time Job Creation		Payroll Increase
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Year			Percentage	
1,2, and 3			50%	
4			37.5%	
5			25%	
6			12.5%	
7			0%	

IV. Company plans to invest \$ _____ in real property improvements and / or invest \$ _____ in personal property (manufacturing equipment) prior to _____ (date).

V. The current taxable value of the property of the Company is:

Real Property _____

Personal Property _____

Total _____

You will receive a written response to your application for Commercial/Industrial Tax Abatement. Should you have any question, please contact:

Kathy Davidson
City Secretary
P.O. Box 760
Gilmer, TX 75644