

ORDINANCE NO. 2018-02-13-001

**AN ORDINANCE ESTABLISHING A REINVESTMENT ZONE
FOR TAX ABATEMENT; MAKING FINDINGS OF FACT;
PROVIDING SEVERABILITY AND OPEN MEETING CLAUSES;
AND PROVIDING FOR RELATED MATTERS.**

WHEREAS, the promotion and encouragement of economic development, investment, and the construction, renewal and refurbishment of property within the City of Kempner, Texas (the "City") is essential to the present and future well-being of the City;

WHEREAS, provisions for a reasonable and prudent tax abatement and incentive program have been previously adopted by the City and are necessitated by the competition and incentives offered by other Texas communities;

WHEREAS, the City Council held a public hearing and finds the improvements sought are feasible and practical and will be a benefit to the land in the reinvestment zone and to the City after the expiration of a tax abatement agreement; and

WHEREAS, establishment of this reinvestment zone for tax abatement in the City will contribute to the retention and expansion of primary employment and will attract major investment in the zone that will benefit and contribute to the economic development of the municipality.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF KEMPNER, TEXAS, THAT:**

Section 1. Findings. The recitations herein above are found to be true and correct and are incorporated herein as findings of fact made by the City Council.

Section 2. Reinvestment Zone. A reinvestment zone for commercial-industrial tax abatement ("Reinvestment Zone") is hereby created and established in and for the following geographic area within the municipal limits of the City of Kempner, Texas, to-wit:

The portion of land situated in the City of Kempner, County of Lampasas, Texas bounded by U.S. Highway 190 on the north, Pecan Street on the west, Orchard Street on the south, and Bill Brown Street on the east; containing 1.291 acres of Block 13, Lots 1-11, of the Town of Kempner addition, and .430 acres of Block 13, Lot 12, of the Town of Kempner addition; and more precisely shown on the map attached as Exhibit "A."

Section 3. Election of Policy and Criteria. The City Council hereby elects to use the previously adopted "City of Kempner Tax Abatement and Economic Development Policy", attached hereto and incorporated herein for all purposes as Exhibit "B," as the policy and criteria for receiving, evaluating and acting upon applications for tax abatements and incentives for and


with respect to new and expanding developments, and remodeling and refurbishment of structures, within the Reinvestment Zone.

Section 4. Effective Date. This Ordinance shall be in full force and effect from and after its passage on the date shown below.

Section 5. Open Meetings. It is hereby officially found and determined that this meeting was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by the *Texas Open Meetings Act, Chapter 551, Texas Government Code.*

PASSED and ADOPTED this 13th day of February, 2018.

The City of Kempner, Texas



Carolyn Crane, Mayor

ATTEST:



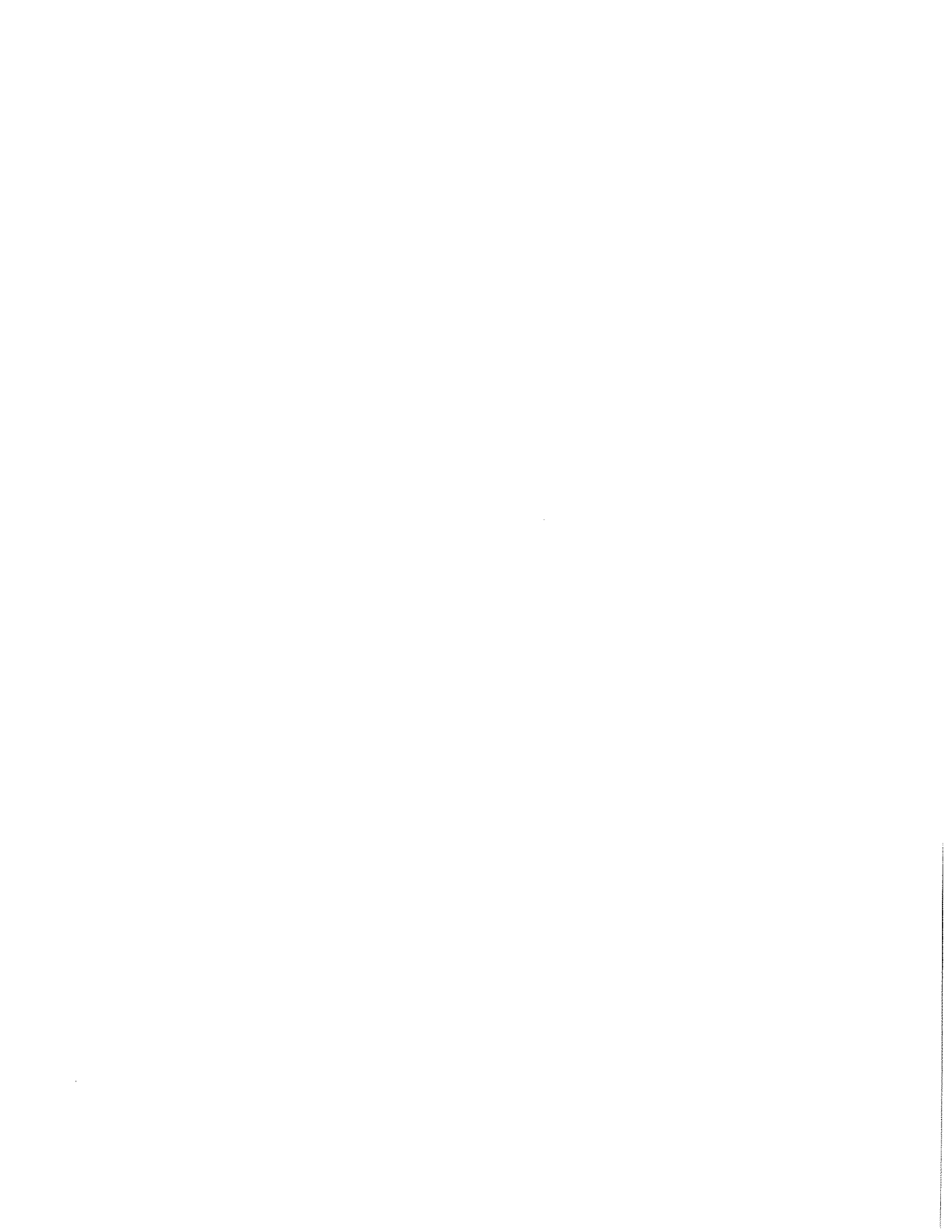
Lisa Campanella, City Secretary



EXHIBIT "A"
Map of Property Designated as Reinvestment Zone



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



CITY OF KEMPNER

TAX ABATEMENT AND ECONOMIC DEVELOPMENT POLICY

Section A. Purpose. The City of Kempner, Texas, is committed to the promotion of quality development in all parts of the City and to improving the quality of life for its citizens. To help meet these goals, the City will consider providing tax abatement and other incentives within the Reinvestment Zone to stimulate economic development within the City. It is the policy of the City that such incentives will be provided in accordance with the guidelines and criteria outlined in this document. However, nothing in this policy shall imply or suggest, by implication or otherwise, that the City is under any obligation to provide any incentive to any applicant; and all such decisions and actions shall be at the sole discretion of the City Council. All applicants for tax abatement and other economic development incentives will be considered on an individual basis.

It is the City's intent to offer tax abatement and other economic development incentives on an individual basis so that a total package of incentives, if any, may be designed specifically for each proposed project. This approach will allow the City the flexibility necessary to satisfy the unique needs and concerns of each applicant and the needs and concerns of the City and its citizens.

Section B. Definitions:

"**Eligible Facility**" means a structure or building that is designed, constructed or remodeled for use as a commercial or industrial business purpose and that is located wholly within the Reinvestment Zone.

"**Eligible Business**" means a new or existing business.

"**New Employment**" means that not less than two (2) full-time equivalent employee positions will be maintained or created and

(a) At least 25% of the jobs provided will be made available to residents of the City of Kempner;

(b) At least 50% of the jobs provided will be made available to residents of Lampasas County; and

(c) Compliance with the requirements of local hiring will remain in effect for the entire period that economic incentives are being offered.

"**New Value**" means the net increase in the value of an Eligible Facility, including the real estate, improvements and fixtures, together with the machinery and equipment therein.

"Reinvestment Zone" means that part of the City that is identified as a Reinvestment Zone in a current ordinance; such designation being made by the City Council in the manner specified in §§ 312.201 or 312.2011, Texas Tax Code.

Section C. Minimum Requirements and Criteria. The following are minimum requirements that must be satisfied for an application for tax abatement or other incentives to be considered. A business must be located within the Reinvestment Zone to qualify for tax abatement. A business may qualify for a tax abatement by any one of the following:

1. Property Improvements and Employment.

- (a) The proposed development and/or redevelopment of real property must create or maintain at least 2 jobs that will continue for a period of ten years;
- (b) The applicant must be investing at least \$25,000 in property improvements;
- (c) The proposed project must be in compliance with the City's zoning ordinances, building codes and all other applicable City ordinances; and
- (d) The useful life of the proposed real property improvements must be not less than twenty (20) years.

2. Construction, remodeling, refurbishment or restoration of real property improvements.

- (a) The applicant must invest at least \$25,000 in the construction of a new building, or the remodeling, refurbishment or restoration of an existing structure;
- (b) The proposed project must be in compliance with the City's zoning ordinances, building codes and all other applicable City ordinances; or
- (c) The proposed real property improvements will abut a public street, be viewable from the street, include landscaping or other decorative enhancements, have a cost of not less than \$5,000, and have a useful life of at least twenty years.

3. Offsets and Adjustments applicable to paragraphs 1 and 2 above.

- (a) At the discretion of the City Council, the assessed value of any property that is demolished will be subtracted from the value of the property replacing it, for the purpose of calculating the portion eligible for abatement; and
- (b) For businesses relocating from a non-reinvestment zone location into the reinvestment zone, eligibility for incentives will be determined using the increase in the number of jobs at the new location over the jobs at the previous site.

4. New capital equipment.

- (a) The applicant must invest at least \$25,000 in new capital equipment.

Section D. Tax Abatements. The period, or duration, of the tax abatement shall be determined as provided in this Section.

(a) Property Improvement and Jobs. The percentage of the tax abatement for which a business may qualify will be determined on the basis of the level of New Value and New Employment according to the following chart and schedule:

| VALUE ADDED | JOBS CREATED/MAINTAINED | USE SCHEDULE NUMBER |
|--------------------|-------------------------|---------------------|
| \$ 25,000-100,000 | 3-5 | 1 |
| \$100,001-250,000 | 6-15 | 2 |
| \$250,001-500,000 | 16-25 | 3 |
| \$500,000 and over | 26+ | 4 |

Depending on the schedule for which the business qualifies, a percentage of the tax may be abated on an Eligible Facility for up to ten years as follows:

SCHEDULE NUMBER

| YEAR | #1 | #2 | #3 | #4 |
|------|-----|-----|-----|-----|
| 1 | 100 | 100 | 100 | 100 |
| 2 | 100 | 100 | 100 | 100 |
| 3 | 100 | 100 | 100 | 100 |
| 4 | 100 | 100 | 100 | 100 |
| 5 | 100 | 100 | 100 | 100 |
| 6 | 60 | 100 | 100 | 100 |
| 7 | 50 | 75 | 100 | 100 |
| 8 | 50 | 75 | 100 | 100 |
| 9 | 50 | 75 | 75 | 100 |
| 10 | 50 | 50 | 75 | 100 |

(b) Construction, remodeling, refurbishment or restoration (no employment). (i) If the value added is more than \$25,000 the percentage of tax that may be abated is up to 100% for up to six years.

(ii) If the improvements are exterior improvements as referenced in Section C.2(c) above and the value is \$5,000, or more, the percentage of tax that may be abated is up to 100% for up to six (6) years.

- (c) New Capital Equipment. If the value of new capital equipment added is \$25,000, or more, the percentage of tax that may be abated is up to 100% for up to three (3) years.

Section E. Other Incentives. It is the intent of the City to offer tax abatement and other economic development incentives on an individual basis so that the total package of incentives may be designed specifically for each proposed project. This approach will allow the City the flexibility necessary to satisfy the unique needs and concerns of each applicant and the needs and concerns of the City and its citizens.

Section F. Application Procedures. Any person, organization, joint venture, partnership, association, or corporation desiring that the City consider providing tax abatement and other economic development incentives to encourage location of a business or expanded business operations within the Reinvestment Zone shall be required to comply with the following procedures.

1. Applicants shall make verbal or written application to the City;
2. A complete legal description of the property along with a plat showing the precise location of the project shall be submitted;
3. A brief description of the proposed improvements or expansion must be provided along with the project's estimated cost, the type of business operation proposed, the number and type of jobs created, the expected source of labor to fill such jobs, the projected date of beginning operation and the type and value of the tax abatement and other economic development incentives which are requested;
4. Applicants shall submit either a current financial statement, if currently in business, or a prospective financial statement, if a start-up business; and
5. Applicants shall provide other information as required by the City.

All applications will be reviewed by the City Mayor or Authorized Representative for completeness and accuracy, and comments may be received from appropriate City departments. Once this information is compiled, the application and review comments will be forwarded to members of the City Council and to other any taxing entities that may be involved in offering tax abatement. After the review by the City Council and other taxing entities, additional information may be requested of the applicant.

All requirements of the Property Redevelopment and Tax Abatement Act, Chapter 312, Texas Tax Code, shall be followed.

Section G. City Council Approval. If the City Council determines in its sole discretion that it is in the best interest of the City to grant incentives to a particular applicant, a resolution shall be adopted approving the terms and conditions of a tax abatement and economic development

incentive agreement ("tax abatement agreement") with the applicant. The abatement of taxes will not be effective until a written agreement is executed. The tax abatement agreement will enumerate the types of incentives to be provided and the conditions applicable to such incentives.

All such tax abatement agreements must, at minimum, be in writing and include;

1. a description of each of the types of incentives to be provided and their duration;
2. a legal description of the property indicating its location in the Reinvestment Zone;
3. detailed information regarding the type, number, location and cost of planned improvements;
4. a plan providing access to and inspection of the property and proposed improvements by City inspectors and officials to ensure the improvements are made according to the requirements and conditions of the agreement;
5. a provision limiting the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that tax abatements and other economic development incentives are in effect; and
6. a method to provide for the City to recover property tax revenues and all waived fees and costs which are lost as a result of the agreement if the applicant fails to perform its obligations under the agreement.

Section H. Recapture. A recapture of abated taxes will occur if a condition of default occurs at any time prior to the end of the term of the agreement. A default under the agreement occurs when any obligation of the applicant/owner to the agreement is not fulfilled in strict accordance with the terms thereof, including, by way of example and not limitation, failure to employ the requisite number of jobs within the time allowed by the agreement. A default under the agreement occurs if it is determined by the City or any other abating entity that such tax abatement was obtained through fraud. A default also occurs if the applicant/owner is in default in the payment of unabated taxes to any taxing jurisdiction within the reinvestment zone, regardless of whether that entity is an abating entity. A default also occurs if any portion of the property involved with the project is disposed of by any means or in any manner without replacement of equivalent value. The term disposition includes, as example and not limitation, sale, theft, abandonment, obsolescence due to lack of repair (but not functional obsolescence), destruction by casualty without replacement, or any other cessation of use. No default shall be actionable until the applicant/owner has received written notice from the City or other abating entity of the alleged default and the same has not been cured within thirty (30) days following such written notice. Termination of the agreement and the resulting recapture shall be retroactive to the effective date of the agreement. Termination of the agreement shall be effected by resolution, after notice and public hearing. Written notice of a final resolution terminating the

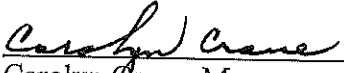
agreement shall be given to the business/applicant/owner. There is no administrative appeal from such determination.

On termination, the business/applicant/owner shall then become liable for the payment of all taxes that would otherwise have become due, but for the tax abatement agreement for all the years during which the agreement was in effect. Said taxes shall be paid to each entity abating such taxes within sixty (60) days following such notice of termination. If the taxes are not paid as required or if it is determined that the tax abatement was obtained through fraud, then all such taxes due shall include any statutory penalty and interest from the date they would have otherwise become delinquent but for the agreement, until the date they are actually paid. A partial recapture of taxes may take place if the business/owner/applicant does not fulfill all of the terms of the agreement but does accomplish the agreement to an extent that would have qualified it for a lesser abatement.

Section I. Term and Amendments. The guidelines and criteria adopted herein shall be effective for two years from the date of adoption and shall not be amended or repealed except by three-fourths vote by the City Council.

PASSED AND APPROVED, this the 13th day of February 2018

City of Kempner, Texas


Carolyn Crane, Mayor

ATTEST:


Lisa Campanella, City Secretary