



**KARNES CITY, TEXAS  
GUIDELINES AND CRITERIA FOR  
TAX ABATEMENT**

**Section 1 DEFINITIONS**

- (a) “Abatement” means the full or partial exemption from ad valorem taxes on certain real proper in a reinvestment zone designated by the City of Karnes City for economic development purposes.
- (b) “Eligible Jurisdiction” means the City of Karnes City, Karnes County and any school district or other local taxing jurisdictions eligible to abate taxes according to Texas law, the majority of which is located in the City of Karnes City that levies ad valorem taxes upon and provides services to a reinvestment zone designated by the City of Karnes City.
- (c) “Agreement” means a contractual agreement between a property owner and/or lessee and the City of Karnes City for the purpose of tax abatement.
- (d) “Base Year Value” means the assessed value of eligible property January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the agreement.
- (e) “Deferred Maintenance” means the improvements necessary for continued operations, which do not improve productivity or alter the process technology.
- (f) “Distribution Center Facility” means buildings and structures, including machinery and equipment, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility operator where a majority of the goods or services are distributed to points at least fifty (50) miles from its location in the City of Karnes City.
- (g) “Expansion” means the addition of buildings, structures, machinery or equipment for purposes of increasing production capacity.
- (h) “Facility” means property improvements completed or in the process of construction which together comprise an integral whole.

- (i) “Manufacturing Facility” means buildings and structures, including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (j) “Modernization” means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.
- (k) “New Facility” means a property previously undeveloped, which is placed into service by means other than or in conjunction with expansion or modernization.
- (l) “Other Basic Industry” means buildings and structures including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services, which serve a market primarily outside the City of Karnes City.
- (m) “Productive Life” means the number of years a property improvement is expected to be in service.
- (n) “Regional Entertainment Facility” means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through admission of the general public where majority of users reside at least fifty (50) miles from its location in the City of Karnes City.
- (o) “Research Facility” means buildings and structures, including machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.
- (p) “Regional Service Facility” means building and structures, including machinery and equipment, used or to be used to service goods where a majority of the goods being serviced originate at least fifty (50) miles from the facility’s location in the City of Karnes City.
- (q) “Commercial Facility” means buildings and structures for service related industries and certain retail establishments as deemed appropriate by the City Council where a minimum of five (5) new jobs and/or pay role exceeding one hundred thousand dollars (\$100,000) and investment of five hundred thousand dollars (\$500,000) or more in new buildings will be made.
- (r) “Economic Development” means participation in or support of an organized program or entity which, for the purpose of its mission, engages in activities designed to encourage employment opportunities, development commercial and manufacturing business/industry to locate and/or expand in the City of Karnes City, thus expanding and diversifying the tax base as well as increasing the economic strength and stability of the City of Karnes City.
- (s) “Qualified Vendors and Services” means those vendors and services that meet the company’s individual stated requirements, which can include but are not limited to safety, financial condition, environmental record, quality or ability to perform.

(t) "The City of Karnes City Vendor and Services" means a company that employs the City of Karnes City residents and pays the City of Karnes City taxes.

## **Section 2 GENERAL CRITERIA**

(a) All applications must meet the following general criteria before being considered for tax abatement:

- (1) The project expands the local tax base.
- (2) The project creates permanent full time employment opportunities.
- (3) The project would not otherwise be developed.
- (4) The project makes a contribution to enhancing further economic development.
- (5) The project must remain in good standing with all governmental and environmental regulations.
- (6) The project has not been started and no construction by the applicant has commenced at the time the application is approved.

(b) The project must meet the following:

- (1) There would be no substantial adverse effect on the provision of government services or tax base;
- (2) The applicant has sufficient financial capacity;
- (3) Planned or potential use of the property would not constitute a hazard to public safety;
- (4) Planned or potential use of the property would not create adverse impacts to adjacent properties;
- (5) Comply with the laws of the United States, State of Texas, ordinances of the City of Karnes City, Texas or orders of Karnes County; or
- (6) The improvement project is not financed with tax increment bonds.

## **Section 3 ABATEMENT AUTHORIZED**

(a) Authorized Facility. A facility may be eligible for abatement if it is a Manufacturing Facility, Research Facility, Distribution Center or Regional Service Facility, Regional Entertainment Facility, Approved "Commercial Facility" or Other Basic Industry.

(b) Creation of New Value. Abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in an abatement agreement between the City of Karnes City and the property owner or lessee, subject to such limitations as the City of Karnes City may require.

(c) New and Existing Facilities. Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.

(d) Eligible Property. Abatement may be extended to the value of buildings, structures; fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility.

(e) Ineligible Property. The following types of property shall be fully taxable and ineligible for abatement: land, inventories, supplies, tools, furnishings and other forms of movable personal property; vehicles, vessels, aircraft, single-family housing, deferred maintenance investments, property owned or used by the State of Texas or its political subdivisions or by any organizations owned, operated or directed by a political subdivision of the State of Texas.

(f) Owned/Leased Facilities. If a leased facility is granted abatement, the agreement shall be executed with the lessor and the lessee. Publicly owned land leased to private entities shall be eligible if otherwise qualified.

(g) Value and Term of Abatement. Abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the agreement. On a scale as follows:

Investment	Year	Maximum Abatement
\$500,000 - \$2,000,000	1	80%
	2	50%
	3-4	25%
\$2,000,001 - \$4,000,000	1-2	90%
	3	60%
	4	50%
	5	25%
\$4,000,001 - \$10,000,000	1-2	100%
	3-4	75%
	5-6	50%
	7	25% or as negotiated
\$10,000,001 and up	negotiable up to 7	negotiable

Notwithstanding any other provision of guidelines and criteria the City of Karnes City has the authority to negotiate with the applicant the term of years and percentage of abatement.

Such percentage of value that shall be set by City of Karnes City order of new eligible properties shall be abated for up to seven years or one-half (1/2) the productive life of the improvement whichever is less. The abatement may be extended through an initial agreement and a subsequent agreement may be required to comply with state law regarding the term of the reinvestment zone. If a modernization project included facility replacement, the abated value shall be the value of the new unit(s) less the value of the old unit(s).

(h) Economic Qualification. In order to be eligible for designation as a reinvestment zone and to qualify for tax abatement, the planned improvement:

- (1) Must be reasonably expected to increase the value of the property in the amount of \$500,000 or more;
- (2) Must prevent the loss of employment and create employment for at least five (5) additional people (meaning a net gain of of five [5] full time employees) on a full-time (forty [40] hours per week equivalent) basis in the City of Karnes City for

the duration of the abatement period; and

- (3) Must be necessary because capacity cannot be provided efficiently utilizing existing improved property;

Additionally, the owner of the project:

- (4) Must provide for and pay, at the time of filing an application for tax abatement, a non-refundable application fee of five hundred dollars (\$500). A part of the application fee will be dedicated by the City of Karnes City to economic development programs authorized by Local Government Code, Section 381.004.
- (5) Must file a plan statement with application demonstrating willingness and planned efforts rouse qualified City of Karnes City vendors and services where applicable in the construction and operations of the facility. The City of Karnes City vendors and services must be competitive with non-county vendors and services regarding price, quality, safety, availability and ability to perform.

(i) Taxability. From the execution of the abatement contract to the end of the agreement period, taxes shall be payable as follows:

- (1) The value of ineligible property as provided in Section 2(e) shall be fully taxable;
- (2) The base year value of existing eligible property as determined each year shall be fully taxable; and
- (3) The additional value of new eligible property shall be taxable in the amount described in Section 2(g).

#### **SECTION 4 APPLICATION**

(a) Any present or potential owner of taxable property in the City of Karnes City may request the creation of a reinvestment zone and tax abatement by filling a written request with the City of Karnes City. The application shall be filed with the administrative head of the governing body and the applicant shall furnish a copy to each member of the governing body.

(b) The application shall consist of a completed application form accompanied by: a general description of the proposed use and the general nature and extent of the modernization, expansion or new improvements which will be a part of the facility; a map and property description; a time schedule for undertaking and completing the planned improvements. In the case of modernizing, a statement of the assessed value of the facility separately stated for real and personal property shall be given for the tax year immediately preceding the application. The application form shall require such financial and other information, as the City of Karnes City deems appropriate for evaluating the financial capacity and other factors of the applicant.

(c) Upon receipt of an application for creation of a reinvestment zone and application for abatement, the Tax Abatement Review Committee (TARC) shall consider the feasibility and the

impact of the proposed Tax Abatement. The review of feasibility shall include, but not be limited to, an estimate of the economic effect of the abatement of taxes and the benefit to the eligible jurisdictions and property to be covered by such abatement.

(d) After receipt of a completed application, the Mayor shall notify in writing the presiding officer of the legislative body of each eligible jurisdiction. Before acting upon the application the City of Karnes City City Council shall hold a public hearing at which interested parties shall be entitled to speak and present written materials for or against the approval of the tax abatement. The public hearing shall also afford the applicant and the designated representative of any eligible jurisdiction opportunity to show cause why the abatement should or should not be granted. Notice of the public hearing shall be clearly identified on a City of Karnes City agenda to be posted at least seven (7) days prior to the hearing.

(e) If upon written request for a legal opinion or interpretation from The City Council TARC, the legal counsel for the City of Karnes City determines that the application does not appear to comply with the written language of the Guidelines and Criteria, a public hearing on said application, if already set, shall be postponed for a period of at least thirty (30) days from the scheduled date of public hearing to allow time for further review by the City Council or any duly appointed review committee, or if an initial setting has not been made, the hearing on such application shall be set on the City Council agenda no sooner than sixty (60) days from the time the Court enters an order to set the public hearing date. The applicant shall file a supplement or addendum to its application to show cause why the application should be approved and shall present reasons at the public hearing on the same. Provided that any final decision or interpretation as to the intent and meaning or policy of any provisions or its written language; any final decision as to whether or not an application complies or does not comply with the guidelines and criteria; and any final decision as to whether to grant or deny tax abatement shall be made by the City Council at its sole discretion.

(f) The City of Karnes City shall not establish a reinvestment zone for the purpose of abatement if it finds that the request for abatement was filed after the commencement of construction, alteration or installment of improvements related to a proposed modernization, expansion or new facility.

(g) Variance. Requests for variance from the provisions of Subsection (a) of Section 1 and/or (h)(2) of Section 2 may be made in written form to the Mayor with a copy forwarded to the TARC. Said variance will only be considered if it is requested for a project valued at less than five hundred thousand dollars (\$500,000). Such requests shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request requires a three-fourth (3/4) vote of the governing body.

## **Section 5 AGREEMENT**

(a) After approval, the City of Karnes City City Council shall formally pass a resolution and negotiate and execute a mutually acceptable agreement with the owner of the facility and/or lessee as required, which shall include:

- (1) Estimated value to be abated and the base year amount;

(2) Percent of value to be abated each year as provided in Section 2(g);

(3) The commencement date and the termination date of the abatement;

(4) The proposed use of the facility; nature of construction, time schedule, map, property description and improvement list as provided in Application, Section 3(b);

(5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided in Sections 2(a), 2(f), 2(g), 2(h), 6,7 and 8;

(6) Size of investment and average number of jobs involved for the period of abatement; and

(7) Provision that Owner shall annually furnish information necessary for the City of Karnes City's evaluation of Owner's compliance with the terms and conditions of the tax abatement agreement and these guidelines and criteria (in the form of an annual report/statement of compliance), together with an additional provision that the City of Karnes City may, at its election, request and obtain information from Owner as is necessary for the city's evaluation of Owners's compliance with the terms and conditions of the tax abatement agreement and these guidelines and criteria.

If the parties successfully negotiate an agreement, such agreement shall be executed within sixty (60) days after the applicant has forwarded all necessary information and documentation to the City of Karnes City.

## **Section 6 RECAPTURE**

(a) In the event that the facility is completed and begins producing products or service but subsequently discontinues producing products or service for any reason except fire, explosion or other casualty or accident or natural disaster for a period of six (6) months during the abatement period, then the agreement shall terminate and so shall the abatement of taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for that calendar year and all taxes previously abated by virtue of this agreement will be reconstructed and shall be paid to the City of Karnes City within sixty (60) days from the date of termination.

(b) Should the City of Karnes City determine that the company or individual is in default according to the terms and conditions of its agreement, the City of Karnes City shall notify the company or individual in writing at the address stated in the agreement and if such is not cured within sixty (60) days from the date of such notice ("Cure Period"), then the agreement is terminated.

(c) In the event that the company or individual (1) allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, or (2) violates any of the terms and conditions of the abatement agreement and fails to cure during the "Cure Period", the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days

of the termination.

(d) Any amount to be recaptured under this section shall be a lien on all real and personal property of the owner, the company and/or individual receiving the abatement.

#### **ADMINISTRATION Section 7**

(a) The Chief Appraiser of the Karnes County Appraisal District shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the city with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser shall notify the eligible jurisdictions, which levies taxes on the amount of the assessment.

(b) The agreement shall stipulate that TARC of the City of Karnes City will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such a manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual and in accordance with their safety standards.

(c) Tax Abatement Review Committee. The City Council shall appoint a standing Tax Abatement Review Committee (TARC) for the purposes of (1) reviewing the tax abatement application and consider the feasibility of the abatement; and, (2) conducting annual inspections and/or evaluations of the abated facilities to insure compliance with the terms/conditions of the tax abatement agreement.

(d) The Tax Abatement Review Committee shall be comprised of the following persons:

- (1) Mayor of the City of Karnes City;
- (2) City Manager of the City of Karnes City;
- (3) City Development Manager of the City of Karnes City will act as the administrator of the TARC;
- (4) One council member of the City Council of the City of Karnes City, to be approved by a majority vote of the City Council.
- (5) Three persons who are residents of the City of Karnes City or who engage in business in the City of Karnes City.
- (6) The City Attorney, who shall serve as an ex-officio member of the committee and render advice on abatement qualifications and procedures.

The appointed members shall serve two (2) year terms and are eligible for reappointment by the City Council.



(e) Upon completion of construction, the owner of an abated facility must submit a written report/statement of compliance annually during the life of the abatement to the City Council of the City of Karnes City and TARC clearly detailing the status of the facility and how it is complying with the abatement guidelines. The Committee shall annually evaluate each abated facility and report possible violations to the contract and agreement to the City Council.

(f) The City of Karnes City shall timely file with the Texas Department of Commerce and the Property Tax Division of the State Comptroller's office all information required by the Tax Code.

### **Section 8 ASSIGNMENT**

Abatement may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of the City of Karnes City subject to the financial capacity of the assignee and provided that all conditions and obligations in the abatement agreement are guaranteed by the execution of a new contractual agreement with the City of Karnes City. No assignment or transfer shall be approved if the new parties to the existing agreement, the new owner or lessee are liable to the City of Karnes City or any eligible jurisdiction for delinquent taxes or other obligations. Approval shall not be unreasonably withheld.

### **Section 9 SUNSET PROVISION**

(a) These guidelines and Criteria are effective upon the date of their adoption and will remain in force for two (2) years, at which time all reinvestment zones and tax abatement contracts created, pursuant to its provisions, will be reviewed by the City of Karnes City to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria will be modified, renewed or eliminated providing that such actions shall not affect existing contracts or applications for tax abatement filed prior to the expiration of said Guidelines and Criteria shall be governed by the provisions of these Guidelines and Criteria regardless of any subsequent modification or amendment.

(b) These guidelines and policies for Tax Abatement shall be effective \_\_\_\_\_ and shall remain in force until \_\_\_\_\_ unless amended or superseded, modified, renewed or eliminated by City Council prior to that date.