

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, ADDING ARTICLE 4.14 TO CHAPTER 12 OF THE FRESNO MUNICIPAL CODE RELATING TO THE EXEMPTION OF DEVELOPMENT IMPACT FEES FOR CERTAIN PROJECTS IN ECONOMICALLY DISADVANTAGED NEIGHBORHOODS

SECTION 1. Article 4.14 is added to Chapter 12 of the Fresno Municipal Code to read:

ARTICLE 4.14

EXEMPTION OF DEVELOPMENT IMPACT FEES FOR CERTAIN PROJECTS IN ECONOMICALLY DISADVANTAGED NEIGHBORHOODS

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| Section | 12-4.1401. | Purpose and Findings.   |
|         | 12-4.1402. | Economically Disadvantaged Neighborhoods Defined.             |
|         | 12-4.1403  | Fees Subject to Exemption.                                    |
|         | 12-4.1404. | Exemption from Payment of Fees for Certain Types of Business. |
|         | 12-4.1405. | Application Process and Approval.                             |
|         | 12-4.1406. | Exemption Shall Not Trigger Prevailing Wage.                  |
|         | 12-4.1407. | Annual Report.  |
|         | 12-4.1408. | Effectiveness.  |

SECTION 12-4.1401. PURPOSE AND FINDINGS. The City wishes to provide incentives to facilitate desirable development in underserved neighborhoods. Grocery stores, professional and medical offices, banks, and mixed use developments are inconsistently distributed around the City, with economically disadvantaged neighborhoods being vastly underserved. To incentivize development of desirable businesses in these neighborhoods, Council proposes to institute this article to eliminate development impact fees when certain criteria are met.

In Economically Disadvantaged Neighborhoods, public infrastructure to support commercial uses currently exists, so the need for additional development impact fees to pay for development impacts in those areas are reduced or eliminated. The City recognizes exemption of certain projects from payment of selected impact fees will reduce the amount of funds available for use on public facilities for each fee exempted. A portion of the exempted fees may need to be offset by either reducing the public infrastructure investments that are the basis for the current fee schedule and/or identifying other legally available funding sources. Certain public facilities that were planned at the time of the adoption of the current impact fees may need to be reduced or eliminated as unnecessary, nonessential, or delayed. The City also recognizes a fee cannot be increased on future developments or other developments to make up for fees exempted pursuant to this article.

In addition, development incentivized by this ordinance would create an increase in assessed valuation, and therefore increased property tax receipts due to the City, which combined with potential sales tax revenue and other revenue streams resulting from job creation and economic activity of the development, may be used to offset the effect of the reduced fees.

Although this article regulates the payment of fees prescribed by the Zoning Ordinance, it shall not be deemed a part thereof.

SECTION 12-4.1402. ECONOMICALLY DISADVANTAGED NEIGHBORHOODS DEFINED. Economically Disadvantaged Neighborhoods shall be defined as follows:

(a) A designated Community Development Block Grant (CDBG) targeted area.

(b) Census tracts where forty percent (40%) or more of households are considered to be of low or moderate income, as defined in California Health and Safety Code section 50093.

(c) Within one-half mile of the Blackstone Bus Rapid Transit (BRT) corridor south of Shaw Avenue.

(d) One of the following former Redevelopment Project Areas:

(1) Airport Area Revitalization Redevelopment Area;

(2) Central Business District Redevelopment Area;

(3) Central City Commercial Revitalization

Redevelopment Area;

(4) Chinatown Expanded Redevelopment Area;

(5) Convention Center Redevelopment Area;

(6) Fresno Air Terminal Redevelopment Area;

(7) Fruit/Church Redevelopment Area;

(8) Fulton Redevelopment Area;

(9) Freeway 99 – Golden State Corridor Redevelopment

Area;

(10) Jefferson Redevelopment Area;

(11) Mariposa Redevelopment Area;

(12) Roeding Business Park Redevelopment Area;

(13) South Van Ness Industrial Redevelopment Area;

(14) Southeast Fresno Revitalization Redevelopment

Area;

- (15) South Fresno Industrial Redevelopment Area;
- (16) Southwest Fresno G.N.R.A. Redevelopment Area;
- (17) West Fresno I Redevelopment Area;
- (18) West Fresno II Redevelopment Area.

SECTION 12-4.1403. FEES SUBJECT TO EXEMPTION. The development impact fees subject to the exemption under this article (the “Development Impact Fees”) include fees for Fire Facilities, Police Facilities, Regional Streets, New Growth Streets, and Traffic Signals. Water and sewer connection charges shall not be subject to exemption.

SECTION 12-4.1404. EXEMPTION FROM PAYMENT OF FEES FOR CERTAIN TYPES OF BUSINESS.

(a) A development project located in an Economically Disadvantaged Neighborhood is exempt from payment of Development Impact Fees if all of the following criteria are met:

(1) The development project is either:

(i) A grocery store dedicating at least fifty percent of its retail space for a general line of food and non-food grocery products intended for home preparation, consumption, and use; or a grocery store dedicating at least thirty percent of its retail space for perishable goods that include dairy, fresh produce, fresh meats/poultry/fish, and frozen foods; or a grocery store dedicating at least 500 square feet of retail space to fresh produce. The exemption shall not apply to convenience stores.

(ii) Any building to be used as a professional or medical office.

(iii) Banks or credit unions. This article does not apply to Payday Lending Establishments.

(iv) Mixed use developments.

(2) The development project is owner-occupied or subject to a commercial lease of three years or more.

(3) Necessary city infrastructure is already in place.

#### SECTION 12-4.1405. APPLICATION PROCESS AND APPROVAL.

(a) Applications for fee exemption shall be submitted to the City Manager, at or before the time of building permit approval. Applications for fee exemptions shall not be submitted until after approval of all discretionary planning entitlements, except that applications for fee exemptions can be submitted concurrently with applications for design review.

(b) The City Manager shall approve the application upon a determination the Applicant meets the criteria in Section 12-4.1404.

(c) Any decision of the City Manager under this Article may be appealed de novo to the City Council by the aggrieved person (appellant), by filing a written request with the City Clerk stating the grounds for appeal and signed by appellant, within fifteen (15) days of the date of service of the decision of the City Manager. After public hearing, the Council shall have the authority to confirm, modify, or overrule the decision of the City

Manager and the decision of Council shall be final. For purposes of this article, service of the decision shall be the date said decision, if written, is mailed to the appellant. If no appeal is timely taken to the Council, the decision of the City Manager shall become final.

SECTION 12-4.1406. EXEMPTION SHALL NOT TRIGGER PREVAILING WAGE. Because impact fees are designed to pay for public infrastructure, the reduction or exemption of fees under this article shall not cause the payment of prevailing wage to be required for the portion of the development project that is not public infrastructure.

SECTION 12-4.1407. ANNUAL REPORT. In addition to the annual report required under the Mitigation Fee Act (Gov. Code 66000 et seq.), the City Manager shall prepare and present a report to Council by the end of each fiscal year, detailing the amount and type of Development Impact Fees eliminated for each development project, along with the running total of eliminated fees that may need to be offset by other legally permissible City funding sources, and/or capital improvement projects planned at the time of adoption of the impact fees that will be reduced or eliminated.

SECTION 12-4.1408. EFFECTIVENESS. This article shall apply to any development projects that have not yet received a building permit as of the effective date of this article. This article shall expire one year after its final adoption. Upon expiration, impact fees will revert back to the full rate at that time without further action by the City.

SECTION 2. This Ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF FRESNO )

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing Ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2015  
Mayor Approval/No Return: \_\_\_\_\_, 2015  
Mayor Veto: \_\_\_\_\_, 2015  
Council Override Vote: \_\_\_\_\_ 2015

YVONNE SPENCE, CMC  
City Clerk

BY: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN,  
City Attorney

BY: \_\_\_\_\_  
Katherine B. Doerr, Assistant

KBD:ns [68773ns/ord]- 8/14/15