

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, ADDING ARTICLE 4.15 TO CHAPTER 12 OF THE FRESNO MUNICIPAL CODE RELATING TO THE EXEMPTION OF DEVELOPMENT IMPACT FEES FOR THE REPLACEMENT OR RECONSTRUCTION OF EXISTING COMMERCIAL STRUCTURES

SECTION 1. Article 4.15 is added to Chapter 12 of the Fresno Municipal Code to read:

ARTICLE 4.15

EXEMPTION OF DEVELOPMENT IMPACT FEES FOR THE REPLACEMENT OR RECONSTRUCTION OF EXISTING COMMERCIAL STRUCTURES

Section	12-4.1501.	Title.
	12-4.1502.	Purpose.
	12-4.1503	Fee Exemption Program.
	12-4.1504.	Application Process and Approval.
	12-4.1505.	Annual Report.
	12-4.1506.	Effectiveness.

SECTION 12-4.1501. TITLE. This article shall be known as the “Commercial BUILD Act” Ordinance of the City of Fresno. Although this article regulates the payment of fees prescribed by the Zoning Ordinance of the City of Fresno, it shall not be deemed a part thereof.

SECTION 12-4.1502. PURPOSE. The Council desires to provide incentives for development within the City. It is Council’s intent that development impact fees shall not be owed for replacement or reconstruction of an existing commercial building or structure that has been destroyed or demolished, where the use of the property will not change or be intensified. Typically, fees would

have been paid when the building or structure was previously constructed. This exemption is with the expectation it will encourage and promote development of vacant and underutilized lots within established neighborhoods.

SECTION 12-4.1503. FEE EXEMPTION PROGRAM. Development of commercial reconstruction projects shall not owe police facilities, fire facilities, major streets, and traffic signal development impact fees (the "Development Fees"), provided the development meets all of the following criteria:

(a) The development is the replacement or reconstruction of an existing commercial building or structure on the site that has been destroyed or demolished. The term "site" shall be limited to the parcel or parcels on which the pre-existing structure sat;

(b) The development is substantially similar in character, and use to the building or structure being replaced or reconstructed;

(c) The replacement or reconstruction does not significantly expand or intensify the use of the property;

(d) Necessary city infrastructure is already in place; and

(e) The development is substantially similar in size to the building or structure being replaced or reconstructed.

(1) For developments up to 125% of the square footage of the original building or structure being replaced, no Development Fees shall be owed.

(2) For developments greater than 125% of the square footage of the building or structure being replaced, Development Fees shall be owed in an amount that is 50% of the Development

Fees that would otherwise be owed for new construction of similar size and character at the site.

SECTION 12-4.1504. 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 12-4.1503.

(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 12-4.1505. 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 12-4.1506. EFFECTIVENESS. This article shall expire one year after its final adoption. Upon expiration, impact fees will be owed at the full rate in effect at that time without further action by the City. In the event of a conflict between this article and any other provisions of this code, ordinance, resolution, or administrative guideline adopted by Council, this article shall apply on the governance of fee exemptions.

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 [67986ns/ord]- 5/21/15