

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SECTIONS 3-616, 7-1510, 9-234 AND 9-915 OF
THE FRESNO MUNICIPAL CODE, RELATING TO HUMAN
RIGHTS, INCLUDING PROTECTIONS AGAINST
DISCRIMINATION BASED ON AND INDIVIDUAL'S CASTE
AND INDIGENEITY

WHEREAS, caste is a system of rigid social stratification characterized by hereditary status, endogamy, and social barriers sanctioned by custom, law, or religion; and

WHEREAS, indigeneity refers to the original, diverse societies with their own identities that constitute an integral part of the Americas; and

WHEREAS, caste discrimination is based on birth and descent, and occurs in the form of social segregation, physical and psychological abuse, and violence; and

WHEREAS, indigenous communities have suffered from historic injustices as a result of, inter alia, their colonization and the dispossession of their lands, languages, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests; and

WHEREAS, caste and indigeneity discrimination manifests in employment, education, and housing; and

WHEREAS, in 2016, the United Nations Special Rapporteur on minority issues stated that at least 250 million people worldwide still face “appalling and dehumanizing

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: AMK

Ordinance No.

discrimination based on caste and similar systems of inherited status,” and during a presentation of the first comprehensive report on caste-based discrimination in 2016 to the United Nations Human Rights Council, the Rapporteur described caste-based discrimination as “a global problem,” and that “caste-based discrimination and violence goes against the basic principles of universal human dignity and equality, as it differentiates between ‘inferior’ and ‘superior’ categories of individuals, which is unacceptable;” and

WHEREAS, in 2014, the United Nations Declaration restated their declaration around the Rights of Indigenous Peoples (“UN Declaration”) that “Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity;” and

WHEREAS, the majority of the caste-affected communities live in or originate from South Asia, including India, Nepal, Sri Lanka, Bangladesh, and Pakistan, where many are known by the self-chosen identity of “Dalits,” which means “those who have been broken but are resilient” and others are indigenous or indentured community members; and

WHEREAS, the majority of the indigenous communities in the City of Fresno live in or originate from Mexico (especially that state of Oaxaca and Guerrero), the First Communities of California (especially the Karok, Maidu, Cahuilleno, Mojave, Yokuts, Pomo, Paiute, and Modoc), and larger communities including those from El Salvador, Guatemala, and other regions of Central and South America; and

WHEREAS, caste has been found to significantly affect South Asian Americans based on data collected by Equality Labs, a Dalit civil rights organization dedicated to ending caste apartheid, gender-based violence, and religious intolerance, has found that one in four caste-oppressed people faced physical and verbal assault, one in three face education discrimination, and two in three face workplace discrimination; and

WHEREAS, organizations such in Fresno such as the Jakara Movement, an organization based in Fresno that aims to challenge caste oppression and uplift all communities, Shri Guru Ravidas Sabha, Guru Ravidass Temple, Sikh Institute of Fresno, Sikh Women's Organization of Central California, Hidden Wealth, Gurdwara Gur Nanak Prakash, and others have hosted community forums and has worked to realize Guru Arjan's vision of Halemi Raj (politics that uplift the vulnerable) and Bhagat Ravidas Ji's mission of a Begampura (a city without sorrow); and

WHEREAS, the Centro Binacional para el Desarrollo Indígena Oaxaqueño (CBDIO), is an Indigenous-led organization that works in the Central Valley and Central Coast to foster and strengthen the civic participation, economic, social, cultural development of the indigenous communities, as well as the resistance of the indigenous communities; and

WHEREAS, prejudice based on caste identification and indigenous community status is found in many industries and is a grave contributor to workplace discrimination and bias; individuals in industries like agriculture technology, construction, restaurant, domestic work and other employment sectors have faced caste discrimination, harassment, bias, wage theft, and even trafficking; and

WHEREAS, consistent with the guidance of the U.S. Department of Justice, Civil Rights Division's interpretation of Title VI of the Civil Rights Act to include a prohibition against discrimination based on actual or perceived shared ancestry or citizenship in a country whose residents share a dominant religion or distinct religious identity, the City of Fresno prohibits discrimination and harassment based on race, color, ancestry, religion, creed, and national origin; and

WHEREAS, the City of Fresno is committed to recognizing the dignity of all its residents, workers, and visitors, including the right to reside, work, and visit a city that does not subject them to prejudicial treatment or discrimination; and

WHEREAS this Ordinance shall be subject to the meet and confer process as applicable; and

WHEREAS, this Ordinance shall be subject to all City policies; as well as any applicable city, state, or federal laws.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 3-616 of the Fresno Municipal Code is amended to read as follows:

SECTION 3-616. - UNFAIR EMPLOYEE RELATIONS PRACTICES

(a) It is an unfair employee relations practice for an employee, employee organization, or an employee representative:

(1) to interfere with, restrain, or coerce any employee in the exercise of his rights granted in this article; or

(2) to violate any provision of Sections 3-621 or 3-622; or

(3) to discriminate against any employee because of race, creed, sex, age, color, or national origin [,caste or indigeneity] with regard to the terms and conditions of membership in an employee organization; or

(4) repealed and reserved; or

(5) to fail, or refuse, to cooperate in impasse procedures invoked pursuant to Section 3-617; or

(6) For a formally recognized employee organization to fail, or refuse, to meet and confer in good faith with the Director at reasonable times, places, and frequencies on matters within the scope of representation.

(b) It is an unfair employee relations practice for an elective officer or a member of a board or commission of the city, or an executive management employee:

(1) to interfere with, restrain, or coerce any employee in the exercise of his rights granted in this article; or

(2) to attempt to dominate or control any employee organization; or

(3) to fail, or refuse, to cooperate in impasse procedures invoked pursuant to Section 3-617.

(c) It is an unfair employee relations practice for:

(1) the Director to refuse to meet and confer in good faith with the representative of a formally recognized employee organization at reasonable times, places, and frequencies, or to consult within a reasonable time after request; or

(2) repealed and reserved;

(d) A charge of an unfair employee relations practice may be filed with the Director by an employee, employee organization representative, an elected official, or a management employee. Such charges shall be processed by the Director who shall with reasonable promptness initiate a fact-finding procedure. The fees and expenses of fact finders incurred pursuant to this section shall be payable as follows: If the unfair employee relations practice charge is found to be true, the party charged shall bear the costs of fact finding. If the charge is found to be not true, the charging party shall bear the costs of fact finding. If the fact finder finds facts mitigating the charged party's conduct, the fact finder shall prorate the costs accordingly. The fact finder's report shall be filed with the City Clerk and shall be a public record.

SECTION 2. Section 7-1510 of the Fresno Municipal Code is amended to read as follows:

SECTION 7-1510. - MISCELLANEOUS PROVISIONS

(a) Parks or other public facilities acquired, developed, rehabilitated or maintained with funds from this Measure shall be open, accessible, and affordable to the public without discrimination as to race,

color, sex, sexual orientation, age, religious belief, national origin, [caste, indigeneity,]marital status, physical or medical handicap, medical condition or place of residence.

(b) The department shall not sell bonds secured by any revenues made available by this ordinance.

(c) The City shall not use funds generated from this resolution to develop facilities on existing or former landfills or waste refuse facilities.

(d) No provision of this ordinance shall be construed as authorizing the condemnation of privately-owned lands. Acquisition of property through eminent domain shall be strictly prohibited with the funds generated by this ordinance.

(e) Reasonable public access to lands acquired in fee simple with funds made available pursuant to this ordinance shall be provided except where that access may interfere with resource protection or to ensure public safety. For purposes of this ordinance, reasonable public access shall include parking and public restrooms.

(f) All real property acquired pursuant to this ordinance shall be acquired in compliance with Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the California Government Code. Public Agencies and Nonprofit Organizations receiving funds pursuant to this resolution shall certify compliance to the City. Funds disbursed to a Public Agency in accordance with this ordinance may be expended by that agency pursuant

to an agreement, or by an entity, authorized or established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

SECTION 3. Section 9-234 of the Fresno Municipal Code is amended to read as follows:

SECTION 9-234. - MISCELLANEOUS

(a) The captions to sections throughout this article are intended solely to facilitate reading and reference to the sections and provisions of this article. Such captions shall not affect the meaning or interpretation of this article.

(b) Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required under this article or any franchise, and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time.

(c) If any term, condition, or provision of this article shall, to any extent, be held to be invalid or unenforceable by a valid order of any court or regulatory agency, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision that had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without

further action by the city and shall thereafter be binding on the franchisee and the city.

(d) Connections to cable system; use of antennae.

(1) To the extent consistent with federal law, subscribers shall have the right to attach VCR's, receivers, and other terminal equipment to a franchisee's cable system. Subscribers also shall have the right to use their own remote control devices and converters, and other similar equipment.

(2) A franchisee shall not, as a condition of providing service, require a subscriber or potential subscriber to remove any existing antenna, or disconnect an antenna except at the express direction of the subscriber or potential subscriber, or prohibit installation of a new antenna, provided that such antenna is connected with an appropriate device and complies with applicable law.

(e) Connections to cable system; use of antennae.

(1) A cable communications system operator shall not discriminate among persons or the city or take any retaliatory action against a person or the city because of that entity's exercise of any right it may have under federal, state, or local law, nor may the operator require a person the city to waive such rights as a condition of taking service.

(2) A cable communications system operator shall not refuse to employ, discharge from employment, or discriminate against any person in compensation or in terms, conditions, or privileges of employment because of race, color, creed, national origin, [caste, indigeneity,] sex, sexual orientation, age, disability, religion, ethnic background, or marital status. A cable system operator shall comply with all federal, state, and local laws and regulations governing equal employment opportunities, and hiring practices, as the same may be amended from time to time.

(f) It shall be unlawful for any person, firm or corporation to make or use any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised cable communication system within this city for the purpose of enabling himself or others to receive or use any television signal, radio signal, picture, program or sound, or other information or intelligence, without payment to the owner of said system or its lessee. It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound, or information or intelligence.

(g) Transitional provisions.

(1) The operator of any facility installed as of the effective date of this article, for which a franchise is required under this article,

shall have three months from the effective date of this article to file one or more applications for a franchise. Any operator timely filing such an application under this section shall not be subject to a penalty for failure to have such a franchise so long as said application remains pending; provided, however, nothing herein shall relieve any cable communications system operator of any liability for its failure to obtain any permit or other authorization required under other provisions of Fresno Municipal Code, and nothing herein shall prevent the city from requiring removal of any facilities installed in violation of the Code.

(2) Any person holding an existing franchise for a cable communications system may continue to operate under the existing franchise to the conclusion of its present term and any additional period required by the Cable Act including section 626 thereof, with respect to those activities expressly authorized by the franchise; and provided further that, such Person shall be subject to the other provisions of this article to the extent permitted by law.

(3) Pending applications shall be subject to this article. A person with a pending application shall have 30 days from the effective date of this Title to submit additional information to comply with the requirements of this article governing applications.

(h) Extended Operation.

(1) Unless otherwise expressly provided in the franchise documents, upon the expiration, non-renewal, or revocation of a franchise, the city may require the franchisee to continue to operate the cable communication system for a defined period of time not to exceed twenty-four (24) months from the date of such expiration, non-renewal, or revocation. The franchisee shall, as trustee for its successor-in-interest, continue to operate the cable communication system under the terms and conditions of this article and the franchise documents and to provide the regular cable service and any of the other services that may be provided at that time. The city shall be permitted to seek legal and equitable relief to enforce the provisions of this section.

(i) Every field representative of the franchisee shall be clearly identified on sight to the public as a representative of the franchisee. Every vehicle of the franchisee shall be similarly identified.

(j) The city may, with the permission of the relevant court or administrative tribunal, intervene in any suit or proceeding involving the cable communication system franchise to which the franchisee is party.

(k) Franchisee shall maintain throughout the term of the franchise, a local address for service of notices by mail.

(l) Within one hundred eighty days from and after the effective date of the ordinance awarding the franchise or franchise renewal, or within

such extended period of time as the council in its discretion may authorize, the franchisee shall file with the city clerk copies of all contracts which it may have with all public utility companies, including but not limited to the SBC Communications Inc. and the Pacific Gas & Electric, whereby grantee is granted any right to use any of the property, equipment or facilities of such utility or utilities in the conduct of any operations pursuant to the franchise or franchise renewal awarded to said franchisee.

(m) The franchisee shall not, and shall prohibit any officer, agent, employee, contractor or subcontractor which it retains from, removing or trimming any tree or portion thereof (either above, at or below ground level), which is located within a public right-of-way without the prior written approval of the City Director of Public Works, consistent with the Fresno Municipal Code. Such consent may be given or withheld upon such terms and conditions as the Director of Public Works deems appropriate. Each franchisee shall be responsible for, shall indemnify, defend and hold harmless the city, and its officers, agents and employees from and against any and all damages arising out of or resulting from the removal, trimming, mutilation of or any injury to any tree or trees proximately caused by the franchisee or its officers, agents, employees, contractors or subcontractors.

SECTION 4. Section 9-915 of the Fresno Municipal Code is amended to read as follows:

SECTION 9-915. - RATES OF FARE

(a) The rates of fare to be charged within the City of Fresno to the public for use of taxicabs shall be the same for all taxicabs operated by the permittee, shall be consistent with city Master Fee Schedule requirements, and shall be based upon time and distance traveled.

(b) The Council, by resolution, may establish rates for mileage, drop charges, and waiting time applicable to all taxicabs. This rate shall increase due to changes in the Consumer Price Index.

(c) Consumers shall be notified of the drop charge and mileage rate in effect at the time the services are contracted and before the initiation of the trip.

(d) Rates may not be based on the geographic location or neighborhood of the drop off or pick up site, or a consumer's race, sex, religion, age, national origin, [caste, indigeneity] or disability.

(e) Permittees may voluntarily offer or negotiate a rate lower than the posted rate.

SECTION 5. 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, TODD STERMER, 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 _____ 2023.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2023
Mayor Approval/No Return: _____, 2023
Mayor Veto: _____, 2023
Council Override Vote: _____, 2023

TODD STERMER, CMC
City Clerk

By: _____
Deputy Date

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: _____
Angela M. Karst Date
Senior Deputy City Attorney