

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, ADDING ARTICLE 22 TO CHAPTER 12 OF THE FRESNO MUNICIPAL CODE TO MAKE THE DEVELOPMENT PROCESS MORE TRANSPARENT, ACCOUNTABLE, AND USER FRIENDLY.

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

SECTION 1. Article 22 is added to Chapter 12 the Fresno Municipal Code to read:

ARTICLE 22

MONEY BACK GUARANTEE/BUSINESS STREAMLINING ACT

- Section 12-2201. Title.
- 12-2202. Purpose.
- 12-2203. Development Application, Infrastructure Improvement Plans, And Building Permit Review And Processing Timelines.
- 12-2204. Credits For Not Meeting Timelines.
- 12-2205. Dispute Resolution.
- 12-2206. At-Risk Permits.
- 12-2207. Customer Satisfaction Survey.
- 12-2208. Development Checklists.

SECTION 12-2201. TITLE. This Article shall be known as the Money Back Guarantee/Business Streamlining Act.

SECTION 12-2202. PURPOSE. The purpose of this act is to streamline the business/development approval process, making the process more transparent and user friendly, while increasing accountability at City Hall to provide efficient customer service.

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: 

Ordinance No.

SECTION 12-2203. DEVELOPMENT APPLICATION,
INFRASTRUCTURE IMPROVEMENT PLANS, AND BUILDING PERMIT
REVIEW AND PROCESSING TIMELINES.

(a) Development applications, infrastructure improvement plans, and building permits shall be reviewed and acted upon in accordance with the following timelines (all timelines set forth in the Article shall be city business days), commencing on the date a completed application, improvement plan, or other document (as applicable) is received:

- (1) Pre-application review for projects – within 15 days.
- (2) Development permit – within 75 days.
- (3) Zone clearance – within 15 days.
- (4) Rezoning or pre-zoning consistent with the General Plan – shall go before Planning Commission within 100 days.
- (5) General Plan amendments within the city's sphere of influence – shall go before Planning Commission within 100 days.
- (6) Site plan review for projects consistent with the General Plan and Zoning - within 15 days.
- (7) Conditional Use Permits – within 75 days.
- (8) Tentative parcel and subdivision maps - within 50 days.
- (9) Final subdivision maps and improvement plans preliminary submittal - within 5 days.
- (10) Site grading plans - within 10 days.
- (11) Construction plans – within 60 days.

(12) Public Works and Public Utilities Infrastructure improvement plans - within 20 days.

(13) Plan back-check – within 5 days.

(14) Final parcel and subdivision map check – within 15 days.

(15) Community Facilities District processing (including hearings) – within 80 days.

(16) Building permits – within 7 days of building plan approval.

(17) Tenant improvement plans under 3,000 square feet – within 10 days.

(18) Tenant improvements of 3,000 feet or more – within 20 days.

SECTION 12-2204. CREDITS FOR NOT MEETING TIMELINES.

(a) The Development and Resource Management (DARM) Department shall assign a person responsible for each application or project who shall ensure timelines are met, including overseeing routing to other city departments and outside agencies.

(b) Failure by the city to complete action on an application or submission according to the timelines set forth herein shall result in the applicant receiving a credit against future city fees and/or business license tax in the amount of the processing fee paid for that application or submission.

(c) The credits for the fee paid by the applicant may be applied:

(1) Against any future or additional city entitlement, permit, and/or plan check fees set forth in the Master Fee Schedule for current or future projects, or other applications pursued by the applicant.

(2) Against any future city business license tax owed by the applicant.

(3) Alternatively, an applicant may request a fee voucher and transfer the credit to another person or business, including donation to a qualified non-profit organization, if desired.

(d) Subsection (b) shall not apply when:

(1) Delay is caused by the applicant or its agent, through error, omission, inaction, or otherwise. Timelines shall be extended for the period of the delay.

(2) Delay is caused solely by another agency, including but not limited to Fresno Irrigation District, Fresno Metropolitan Flood Control District, School District(s), County of Fresno, PG&E, or San Joaquin Valley Air Pollution Control Board. When another agency is the reason for the delay, the city shall immediately communicate to the applicant the cause of or reason for the delay.

(3) Delay is due to the scheduling or action of a legislative or advisory body including but not limited to the Council, Planning Commission, or a District Implementation Committee.

(4) Delay is due to actual or threatened litigation.

(5) The city informs the applicant prior to the expiration of the timeline of extraordinary complexity or circumstances related to the project, entitlement, or approval. The city shall provide an alternate timeline for processing, as agreed upon by the city and the applicant in writing. A project may be considered extraordinarily complex in situations including but not limited to:

(i) The city is providing funding, either directly or via grants, credits, or incentives.

(ii) Where public outreach, such as a neighborhood meeting or meetings, is required or recommended.

(iii) Where the physical circumstances of the project property are unique or require mitigation.

(iv) Where a project approval is appealed.

(v) Where the approvals are pursuant to a Development Agreement being negotiated between the city and the applicant.

(vi) Where subsequent amendments or changes are made to the project by the applicant after submission.

(v) Where applicants seek alternative mitigation measures and/or project conditions that deviate from those recommended by city staff or set forth in the applicable environmental assessment.

(6) When multiple entitlements are packaged or bundled together, the longest timeline will apply.

(7) The project is neither categorically nor statutorily exempt from the requirements of CEQA and the project will require either a Finding of Conformity, or Negative Declaration/Mitigated Negative Declaration, or required tribal consultation, in which case 60 days shall be added to the timeline. If the project requires an EIR, the city shall provide an alternate timeline for processing, as agreed upon by the city and the applicant in writing.

(e) If credits granted result in a reduction of general fund revenue, the resulting shortfall shall be deducted from the DARM budget in the next fiscal year, unless the delays are caused solely by the Public Works Department or Public Utilities Department, in which case the rebate shall be assessed against that department. Credits granted pursuant to this section shall have NO effect on public safety (Police and Fire Departments) budgeting or revenue.

SECTION 12-2205. DISPUTE RESOLUTION. If the applicant and the city are unable to reach agreement on an alternate timeline for processing when required by this article, or dispute whether the city has complied with the timelines set forth this article, the applicant may submit a request for decision in writing, not exceeding five pages, to the city's administrative hearing officer. The city shall have three days to submit to the hearing officer a response to the applicant's request, also not to exceed five pages. The hearing officer shall

render and communicate a decision within five days, in writing, to the applicant and the city, and that decision shall be final.

SECTION 12-2206. AT-RISK PERMITS (FOR INDUSTRIAL/COMMERCIAL/RESIDENTIAL DEVELOPMENT).

(a) For residential, commercial, or industrial projects, after receipt of “first-round” comments on any infrastructure improvement plans (including grading plans), or submittal of a completed application for a building permit, the appropriate official, and/or building official is authorized to issue an “at risk” permit for grading, water, sewer, dry utilities, building foundations, and/or model homes before the construction documents for the whole building, structure, or project have been approved, and before the final map records.

(b) The applicant must satisfy all conditions of approval for all applicable entitlements before a foundation, whole building, structure, or model home “at risk” permit is issued. An applicant shall not be limited on the number of model home “at risk” permits issued, if appropriate Fire Department approval is granted.

(c) The applicant shall execute an agreement to remove all improvements that do not conform to all conditions of approval and future approved plans. The holder of such “at risk” permit shall proceed at the holder’s own risk, including all risk of liability and without assurance that a permit for the entire structure or project will be granted. Occupancy will not be permitted until all conditions of approval are met and the final map is recorded, if applicable.

(d) The city may set forth additional policies and procedures for the issuance of “at risk” permits consistent with this section and approved as to form by the City Attorney’s Office.

SECTION 12-2207. CUSTOMER SATISFACTION SURVEY. The city shall implement a voluntary customer satisfaction survey developed jointly by a committee of public and private representatives that shall be available for completion by every applicant. Surveys may be completed online, or submitted in hard copy to the Controller’s office. A quarterly report of the results of the survey shall be prepared by the Controller, made available on the city’s website, and submitted to the Council. The quarterly report shall include:

- (a) Results and metrics compiled from completed surveys; and
- (b) The number and amount of refunds issued pursuant to Section 12-2204.

SECTION 12-2208. DEVELOPMENT CHECKLIST. The city shall prepare and provide to the public, both over the counter and on the city’s website, a checklist of all necessary documents to be submitted and chronology of necessary steps and approvals for each type of approval or entitlement it issues. The checklists shall contain reference to the refund provisions in this ordinance. The city shall make available to the public where possible the ability to apply online and track the progress of an application.

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 _____, 2018.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2018
Mayor Approval/No Return: _____, 2018
Mayor Veto: _____, 2018
Council Override Vote: _____, 2018

YVONNE SPENCE, MMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

BY: _____
Douglas T. Sloan, City Attorney

DTS:ns [79216ns/dts] 3/14/18