

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
FRESNO, CALIFORNIA, ADDING ARTICLE 23 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 23 is added to Chapter 12 the Fresno Municipal Code to read:

ARTICLE 23

MONEY BACK GUARANTEE/BUSINESS STREAMLINING ACT

- Section 12-2301. Title.
- 12-2302. Purpose.
- 12-2303. Definitions.
- 12-2304. Development Application, Infrastructure
Improvement Plans, And Building Permit Review
And Processing Timelines.
- 12-2305. Refunds For Not Meeting Timelines.
- 12-2306. Dispute Resolution.
- 12-2307. Customer Satisfaction Survey.
- 12-2308. Reports of Results to City Council.
- 12-2309. Development Checklists.

SECTION 12-2301. TITLE. This Article shall be known as the Money
Back Guarantee/Business Streamlining Act.

SECTION 12-2302. 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. The provisions of this Act shall not apply to

publicly-funded infrastructure projects being led by other public agencies or rail projects.

SECTION 12-2303. DEFINITIONS. For purpose of this section, the following terms shall have the following meanings. For any project not specifically defined, it shall be within the city's discretion to categorize it in the appropriate category.

(a) "Acted upon" shall mean approval, denial, conditional approval or denial, or, for building plan check, providing "first round" comments.

(b) "DARM" shall mean the Development and Resource Management Department.

(c) "Planning Level 1 Projects" shall mean routine projects, including tenant improvements (with verification of allowed use), standard sign applications, zoning clearance for business license, rear yard encroachment, minor deviation, standard plans for single family homes, or minor revised exhibit (no routing required).

(d) "Planning Level 2 Projects" shall mean projects of ordinary complexity, including major revised exhibit (routing required), industrial site plan review, tentative parcel maps not requiring Planning Commission and/or City Council hearings, or alcohol conditional use permit.

(e) "Planning Level 3 Projects" shall mean projects of increasing complexity, including full site plan review application, full conditional use permit application, Amendments (application for a modification to a developed site, such as site plan or conditional use permit), tentative

parcel maps requiring Planning Commission and/or City Council hearings, or tract maps.

(f) “Planning Level 4 Projects” shall mean projects of the highest level of complexity, including multiple bundled applications, rezone, plan amendment, annexation, or text amendments.

(g) “Building Level 1 Projects” shall mean routine projects, including simple over the counter permits that do not require plans, residential solar photovoltaic, standard single family home permits, or standard sign applications.

(h) “Building Level 2 Projects” shall mean projects of ordinary complexity, including residential additions/alterations, residential repairs requiring plans, commercial tenant improvements, grading plans, utility plans, miscellaneous structures such as storage racks and cell towers, or plan addendums.

(i) “Building Level 3 Projects” shall mean projects of increasing complexity, including new custom single family residences, new standard tract home plans, new apartment projects, new commercial buildings, new religious buildings, new restaurant buildings, hotels/motels, parking garages, new medical buildings, or change of occupancy.

(j) “Building Level 4 Projects” shall mean projects of the highest level of complexity, including complex industrial projects, public utility capital improvements, multi-story high-rise buildings, or health care facilities.

SECTION 12-2304. DEVELOPMENT APPLICATION,
INFRASTRUCTURE IMPROVEMENT PLANS, AND BUILDING PERMIT
REVIEW AND PROCESSING TIMELINES.

(a) For purposes of this Article:

(1) A determination of application completeness is governed by the Permit Streamlining Act, Government Code Section 65920 et seq., and Fresno Municipal Code Sections 15-5003 and 15-5004.

(2) A completed application, improvement plan, or other document (as applicable) is deemed received on the date delivered to DARM or the appropriate DARM division, whether by personal delivery, mail, overnight delivery, or other means.

(b) 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 this Article shall be city business days), commencing on the date an application, improvement plan, or other document (as applicable) is deemed complete:

(1) Planning Level 1 Projects – within 14 days.

(2) Planning Level 2 Projects – within 45 days.

(3) Planning Level 3 Projects – within 75 days.

(4) Planning Level 4 Projects – within 100 days, unless the city determines the project is subject to Section 12-2305(c)(6).

(5) Building Level 1 Projects – within 3 days.

(6) Building Level 2 Projects – within 14 days.

- (7) Building Level 3 Projects – within 21 days.
- (8) Building Level 4 Projects – within 28 days.
- (9) Building permits – no more than 180 days after completed plan check.
- (10) Public Works and Public Utilities Infrastructure improvement plans – within 20 days.
- (11) Single family residential building plan back-check – within 5 days.
- (12) Commercial plan back check – within 10 days.
- (13) Final parcel and subdivision map check – within 20 days.
- (14) Community Facilities District processing (including hearings) – within 80 days.

SECTION 12-2305. REFUNDS FOR NOT MEETING TIMELINES.

(a) DARM 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, and communicate with the applicant on project status.

(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 refund of the city's portion of the processing fee (including staff time and overhead), in the amount of the processing fee paid for that application or submission, but not including that portion of the processing fee that is paid to third parties for reasons including but not

limited to notification, publication, or outside agency fees. The refund shall be paid from the DARM budget, unless the delay is caused solely by another city department, in which case the refund shall be assessed against that department. Refunds granted shall have no effect on public safety operations.

(c) Section 12-2304 timelines shall be adjusted when:

(1) Delay is caused by the applicant or its agent, through error, omission, inaction, or otherwise. Upon correction of the cause for the delay, the expiration date of the original timeline shall be extended for the number of days equal to the period of the delay, following resubmittal by the applicant.

(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, Caltrans, Department of Alcoholic Beverage Control, tribal entities, other municipalities, or San Joaquin Valley Air Pollution Control Board. The city shall notify applicant when applicant's submission has been sent for review to any such agency, identifying the agency(ies) and each agency's contact information. The city shall use good faith best efforts to encourage other agencies to act timely on applications. 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 as soon as it is known. Upon DARM's receipt of all other agencies' responses to the application

or submission, the expiration date of the original timeline shall be extended by the number of days equal to the period of delay following DARM's receipt of all other agencies' responses.

(3) Delay is due to the scheduling or action of a legislative or advisory body including but not limited to the Council, Planning Commission, Historic Preservation Commission, Airport Land Use Commission, or a District Implementation Committee. The city shall notify applicant when applicant's submission has been sent for review to any such legislative or advisory body, identifying the body(ies) and each body's contact information. Upon completion of all other legislative or advisory bodies' actions in response to the application or submission, the expiration date of the original timeline shall be extended by the number of days equal to the period of delay following DARM's receipt of notice of all other agencies' legislative or advisory bodies' actions.

(4) Delay is due to actual or threatened litigation. Upon resolution of any actual or threatened litigation related to the application or submission, the expiration date of the original timeline shall be extended by the number of days equal to the period of delay following DARM's reasonable determination that such actual or threatened litigation has been satisfactorily resolved.

(5) 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 90 days shall be added to the timeline in Section 12-2304. 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.

(6) 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.

(vii) 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.

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

SECTION 12-2306. DISPUTE RESOLUTION.

(a) Appeal of a determination of application completeness is governed by the Permit Streamlining Act, Government Code Section 65920 et seq., and Fresno Municipal Code Sections 15-5003 and 15-5004.

(b) There shall be a dispute resolution process for the following:

(1) If the applicant and the city dispute whether the city has complied with the timelines set forth in this article; or

(2) If the applicant and the city are unable to reach agreement on an alternate timeline for processing when required by this article.

(c) When a dispute exists under subsection (b), the applicant may submit a request for decision in writing, not exceeding five pages, to the city's administrative hearing officer with the corresponding hearing fee. The request shall set forth the facts in dispute.

(d) The city shall have five days to submit to the hearing officer a response to the applicant's request, also not to exceed five pages.

(e) 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.

(f) The City Manager shall conduct a six-month review of the dispute resolution process, and provide a written report on such review to Council.

SECTION 12-2307. 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 City Manager's office.

SECTION 12-2308. REPORTS OF RESULTS TO CITY COUNCIL. A quarterly written report shall be prepared by the City Manager, made available on the city's website, and submitted to the Council. The quarterly report shall include:

(a) The number and amount of refunds issued pursuant to Section 12-2305;

(b) Timelines and outcomes of appeals submitted to the Administrative Hearing Officer pursuant to Section 12-2306; and

(c) Results and metrics compiled from completed surveys.

SECTION 12-2309. 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 undergo a six-month trial period commencing May 1, 2019. At the end of the six-month trial period, the Ordinance shall return to Council for discussion.

SECTION 3. During the six-month trial period, the Administration shall provide monthly reports to Council regarding the City's performance under the Ordinance.

SECTION 4. During the six-month trial period, all refunds to be granted shall be subject to Council approval. When presented to the Council for approval, the Administration shall identify the budgetary unit from which the refund will come.

SECTION 5. The Administration shall perform a workload analysis and analyze staffing needs and capacity and provide a written report to Council outlining the staffing needs by March 15, 2019. The Administration and staff shall be given until May 1, 2019, to ramp up staffing and systems as needed to implement this Ordinance.

SECTION 6. 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, however, it shall not apply to applications submitted prior to May 1, 2019.

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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 _____, 2019.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2019
Mayor Approval/No Return: _____, 2019
Mayor Veto: _____, 2019
Council Override Vote: _____, 2019

YVONNE SPENCE, MMC CRM
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

BY: _____
Douglas T. Sloan, City Attorney