



ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO
PROPOSED AND INITIATED BY _____
MOVED BY Calhoun SECONDED BY Sterling

BILL NO. B-33

ORDINANCE NO. 2008-31

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
FRESNO LEVYING A SPECIAL TAX FOR THE PROPERTY
TAX YEAR 2008-2009 AND FUTURE TAX YEARS WITHIN
AND RELATING TO COMMUNITY FACILITIES DISTRICT NO.
11, ANNEXATION NO. 31 CITY OF FRESNO, CALIFORNIA

WHEREAS, on May 13, 2008, the Council adopted Council Resolution
No. 2008 - 109 , a resolution of the Council of the City of Fresno annexing territory to
Community Facilities District No. 11 (Annexation No. 31), authorizing the levy of a special
tax therein to pay for certain facilities and services to Annexation No. 31, and preliminarily
establishing an appropriations limit therefore (Annexation Resolution), pursuant to the City
of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the Fresno
Municipal Code ("City Law"); and

WHEREAS, by Council Resolution No. 2008 - 110 , the Council called a special
election on the proposition on levying a special tax and establishing an appropriations limit
within Annexation No. 31; and

WHEREAS, on May 13, 2008, an election was held within Annexation No. 31 and,
as required by the Act to pass, more than two-thirds of the votes cast, approved the
propositions.

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

1. Pursuant to City Law, and in accordance with the Rate and Method of
Apportionment of Special Tax as shown in Exhibit "B" to the Annexation Resolution, a
special tax is hereby authorized and levied on all taxable parcels within Annexation No. 31
for the 2008-2009 fiscal year and for each future fiscal year at the same or at a rate lower
than the maximum rate of tax provided in Exhibit "B" to the Annexation Resolution. By a

Adopted 5-13-08
Approved 5-22-08
Effective 5-22-08

2008-31



Bill No. ~~B-33~~ Ordinance No. 2008-31
Levying Special Tax for 2008-09 etc.
CFD No. 11, Annexation No. 31
Page 2

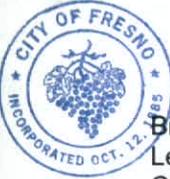
special taxes levied in any fiscal year on any parcel within Annexation No. 31 shall not exceed the maximum tax specified in Exhibit "B" to the Annexation Resolution.

2. The Public Works Director or his designee is authorized and directed, with the aid of the appropriate officers and agents of the City, to determine each year, the Special Tax Requirement (as that term is defined in Exhibit "B" of the Annexation Resolution), to prepare the annual special tax roll in the amount of Special Tax Requirement in accordance with said Exhibit "B" and, without further action of this Council, to provide all necessary and appropriate information to the Fresno County Auditor in the form, and within the time, necessary to effect the correct and timely billing and collection of the special tax on the secured property tax roll of the County. The special tax shall be levied and collected in the same manner, shall be subject to the same penalties and the same lien priority, and the same procedure and sale for delinquency, as for ad valorem taxes. Notwithstanding the foregoing, as set forth in the Annexation Resolution and City Law, this Council reserves the right to use any method of collecting the special tax, which the Council, from time to time, may determine to be in the best interests of the City including, without limitation, direct billing by the City to the property owners and supplemental billing. The Public Works Director or his designee is further authorized and directed to furnish the notices of special tax required by City Law.

3. The appropriate officers and agents of the City are further authorized and directed to adjust the special tax roll before the final posting of the special taxes to the Fresno County tax roll each fiscal year, as necessary to achieve a correct match of the special tax levy with the County Assessor's parcel numbers finally used by the County in sending out property tax bills.

4. If a court of competent jurisdiction finds any part of this Ordinance to be invalid or the special tax to be inapplicable to or unreasonable for any particular parcel, the balance of this Ordinance and the application of the special tax to the remaining parcels, shall not be affected and shall remain in full force and effect.

5. This Ordinance shall take effect and be in force immediately upon the date of final passage, as a tax measure, pursuant to City Charter Section 610.



Bill No. B-33 Ordinance No. 2008-31
Levying Special Tax for 2008-09 etc.
CFD No. 11, Annexation No. 31
Page 3

CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing Ordinance was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the 13th day of May, 2008.

AYES: Calhoun, Dages, Duncan, Perea, Sterling, Westerlund, Xiong

NOES: None

ABSTAIN: None

ABSENT: None

Mayor Approval: _____ May 22 _____, 2008

Mayor Approval/No Return: _____ N/A _____, 2008

Mayor Veto: _____ N/A _____, 2008

Council Override Vote: _____ N/A _____, 2008

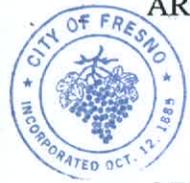
REBECCA E. KLISCH
City Clerk

BY: Rebecca Klisch

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: R 4-23-08
Robert R. Coyle
Senior Deputy City Attorney





ARTICLE 3 SPECIAL TAX DISTRICTS--PROCEDURES

- Sec. 8-1-301. Authority.
- Sec. 8-1-302. Title.
- Sec. 8-1-303. Definitions.
- Sec. 8-1-304. Nonexclusivity.
- Sec. 8-1-305. Conflict of Law.
- Sec. 8-1-306. Nature of Districts.
- Sec. 8-1-307. Construction.
- Sec. 8-1-308. Incorporation of the Mello-Roos Act.
- Sec. 8-1-309. Adopting Goals and Policies.
- Sec. 8-1-310. Authorized Services.
- Sec. 8-1-311. Hearing, Continuances.
- Sec. 8-1-312. Refunding Bonds, Use of Savings.
- Sec. 8-1-313. Extraterritorial Jurisdiction.
- Sec. 8-1-314. Lease of Facilities.
- Sec. 8-1-315. Compliance with Division.
- Sec. 8-1-316. Services Existing Before District Formation.
- Sec. 8-1-317. Public Agency as Qualified Elector.
- Sec. 8-1-318. Special Tax Levy Election.
- Sec. 8-1-319. Joint Community Facilities Agreement or Joint Exercise of Powers Agreement.

SEC. 8-1-301. AUTHORITY.

The city is a municipal corporation, organized and existing under its Charter and the State constitution, with the power to make and enforce all laws and regulations respecting municipal affairs, subject only to any restrictions and limitations provided in the Charter and in the State constitution. The Council finds and declares that providing for special tax districts, to finance certain facilities and services, is necessary, essential, a public purpose, and a municipal affair of the city.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-302. TITLE.

This article may be cited as the City of Fresno Special Tax Financing Law.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-303. DEFINITIONS.

Unless the context otherwise requires, the following definitions shall govern the construction of this article.

- (a) "District" means any special tax district formed pursuant to this article.
- (b) "Facilities" means any or all facilities that a district may finance, purchase, construct, expand, improve, or rehabilitate pursuant to Government Code Section 53313.5, as amended.
- (c) "Mello-Roos Act" means the Mello-Roos Community Facilities Act of 1982 commencing with Section 53311 of the Government Code, as amended. Government Code Sections referenced in this article shall mean those sections as amended from time to time.
- (d) "Private residential purposes," when considering property use, shall not include property used primarily for hotel or residential hotel purposes. Such property shall be



deemed used for commercial and nonresidential use.

(e) "Services" means any or all of the following:

(1) Maintaining, servicing, or replacing (i) any street, highway, road, alley, lane, boulevard, pedestrian mall, parkway, bike path, trail, easement, or other way dedicated to public use or used by the public; and (ii) all appurtenances and improvements therein including, but not limited to, medians, street signs, other signage, street lights, traffic signals, hydrants, soundwalls, drains, tunnels, sewers, curbs, gutters, sidewalks, conduits, culverts, and channels for drainage purposes, with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connection sewers, ditches, drains, conduits, channels, landscaping, and hardscaping.

(2) Maintaining or servicing any lakes, streams, rivers, creeks, channels or other bodies of water and the streambeds, riverbeds, creekbeds, channelbeds or lakebeds, or replacing infrastructure necessary to maintaining or servicing any of the foregoing.

(3) Maintaining, servicing, or replacing any landscaping, hardscaping, lighting or signage next to any right-of-way or other way dedicated to public use or used by the public and described in (1), above, or next to any canal, basin, or ditch.

(4) Establishing and maintaining a reasonable reserve for replacement relating to (1) through (3) above. The reserve for replacement shall be a service cost or expense and shall not be deemed payment for public facilities under Government Code Section 53321(d) when the property subject to the special tax is used for private residential purposes.

(5) Maintaining health and safety services including, without limitation, police, fire, traffic signal control, and recreational services.

(6) Maintaining, caring for, or preserving any facilities defined in this article.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-304. NONEXCLUSIVITY.

The procedures provided in this article are not exclusive, but are alternative to any other procedures provided in this Code or under State law.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-305. CONFLICT OF LAW.

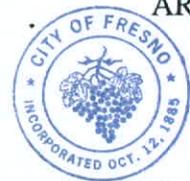
This article is to be read and construed with the incorporated Mello-Roos Act. In any conflict between this division and the provisions of the Mello-Roos Act, this article shall govern.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-306. NATURE OF DISTRICTS.

Districts created pursuant to this article shall be deemed financing districts and not separate governmental agencies distinct from the city.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

**SEC. 8-1-307. CONSTRUCTION.**

This article shall be liberally construed.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-308. INCORPORATION OF THE MELLO-ROOS ACT.

The Mello-Roos Act is incorporated in and made a part of this article. Except as otherwise provided by this article, the mode and manner for financing facilities, for levying and collecting special taxes, and for issuing bonds shall be as prescribed in the Mello-Roos Act.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-309. ADOPTING GOALS AND POLICIES.

The city may initiate proceedings to establish a district or to annex territory to a district pursuant to this article without first considering and adopting goals and policies. Establishing goals and policies as provided in Government Code Section 53312.7, concerning the adoption of local goals and policies, shall be permissive and not mandatory to initiating proceedings pursuant to this article.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-310. AUTHORIZED SERVICES.

A district special tax, whether approved by vote of landowners or registered voters, may finance services specified in the Mello-Roos Act or services as defined in this article. Services financed may supplant services already available in the territory when the district is created or when the territory is annexed to a district.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-311. HEARING, CONTINUANCES.

The hearing on the proposed formation of a district as required by subdivision (e) of Government Code Section 53321, and the hearing on a proposed annexation to an existing district as required by subdivision (f) of Government Code Section 53339.3, shall be held not less than 10 or more than 60 days after the date that the Council adopts the resolution of intention to establish the district, or to annex territory, and may be continued from time to time without further notice, but shall be completed within one year of the original hearing date.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-312. REFUNDING BONDS, USE OF SAVINGS.

The city may use any savings, from issuing refunding bonds, within the district in any manner that Council determines to be in the interests of the district and consistent with the purposes for imposing the special tax.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

**SEC. 8-1-313. EXTRATERRITORIAL JURISDICTION.**

Any district may be created pursuant to this article within the territorial jurisdiction of the city or, upon compliance with the procedures set forth in Streets and Highways Code Sections 5115 through 5118, may extend beyond the territorial limits of the city.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-314. LEASE OF FACILITIES.

Notwithstanding Government Code Section 53313.5, the city may lease out facilities financed pursuant to this article if the Council determines that it is in the best interest of the city to do so.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-315. COMPLIANCE WITH DIVISION.

Any proceedings taken, special tax levied, or bonds issued pursuant to this article shall not be held invalid for failure to comply with the provisions of this division provided such failure is not a constitutional defect.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-316. SERVICES EXISTING BEFORE DISTRICT FORMATION.

Notwithstanding Government Code Section 53313, a special tax imposed pursuant to this article may finance any facilities or services authorized in this article, which were being provided in the territory of the district before the district was created or the territory annexed. The special tax imposed may finance facilities or services that are in addition to existing facilities or services, or that supplant existing facilities or services.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-317. PUBLIC AGENCY AS QUALIFIED ELECTOR.

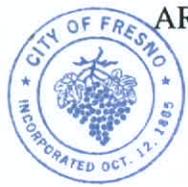
A public agency shall be a qualified elector and entitled to vote in any election in which landowners are the electors.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).

SEC. 8-1-318. SPECIAL TAX LEVY ELECTION.

The Council shall submit the levy of any special taxes to the qualified electors of the proposed district or to the qualified electors of the territory to be annexed to the district in the next general election or in a special election to be held, notwithstanding any other requirement, including any requirement that elections be held on specified dates, contained in the Elections Code, at least thirty days, but no more than one hundred eighty days following the adoption of the resolution calling the election.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).



SEC. 8-1-319. JOINT COMMUNITY FACILITIES AGREEMENT OR JOINT EXERCISE OF POWERS AGREEMENT.

Notwithstanding Government Code Section 53316.2 (b), the city, at any time, may enter a joint community facilities agreement with any local agency or public agency, or a joint exercise of powers agreement with any local agency.

(Added Ord. 2004-103, § 1, eff. 11-15-04; Am. Ord. 2007-97, § 2, eff. 1-19-08).



May 13, 2008

Council Adoption: 5/13/08
Mayor Approval:
Mayor Veto:
Override Request:

TO: MAYOR ALAN AUTRY

RECEIVED

FROM: REBECCA E. KLISCH, CMC
City Clerk

REC 2008 MAY 22 PM 2:19
CITY CLERK, FRESNO CA

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 5/13/08, Council adopted the attached Ordinance No. 2008-31, entitled **Levying special tax re: CFD No. 11, annexation No. 31**, Item No. **10:10 a.m. - d**, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Perea, Sterling, Westerlund, Xiong
Noes	:	None
Absent	:	None
Abstain	:	None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before May 23, 2008. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED:

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

Alan Autry, Mayor

Date: 5/22/08

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes	:
Noes	:
Absent	:
Abstain	: