

ORDINANCE NO. 27894

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 4.46.039.8 OF CHAPTER 4.46 OF TITLE 4 OF THE SAN JOSE MUNICIPAL CODE TO EXTEND THE PERIOD OF SUSPENSION OF COLLECTION OF THE BUILDING AND STRUCTURE CONSTRUCTION TAX FOR THE CONSTRUCTION OF SPECIAL INDUSTRIAL USE TENANT IMPROVEMENTS

WHEREAS, on April 16, 2002, the City Council of the City of San José approved Ordinance No. 26614, which suspended the collection of Building and Structures Taxes for Special Incentive Industrial Use Tenant Improvements, which suspension was to be effective through October 31, 2003; and

WHEREAS, on October 28, 2003, the City Council approved Ordinance No. 27008, extending the suspension to April 30, 2005 and adding construction of Office Use Tenant Improvements in the Downtown Core to the suspension; and

WHEREAS, on May 17, 2005, the City Council approved Ordinance No. 27437, extending the suspension of Building and Structures Taxes for Special Incentive Industrial use Tenant Improvements through October 31, 2006; and

WHEREAS, the City Council desires to further extend the suspension on the collection of the Building and Structures Tax; and

WHEREAS, on October 23, 2003, this Ordinance was found to be categorically exempt from environmental review per the provisions of Section 15061(b)(3) of the California Environmental Quality Act of 1970, as amended, under File No. PP 03-10-336;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 4.46.039.8 of Chapter 4.46 of Title 4 of the San José Municipal Code is amended to read as follows:

4.46.039.8 Suspension -- Special Incentive Industrial Use Tenant Improvements

- A. The collection of the tax imposed under this Chapter, to the extent not already suspended, shall be suspended and the tax shall not be collected with respect to the construction or installation of any Special Incentive Industrial Use Tenant Improvements.
- B. For purposes of this Section "Special Incentive Industrial Use Tenant Improvements" means the interior improvements created for the purpose of industrial or research and development uses located in a Vacant Building or vacant portion of a Vacant Building.
- C. For purposes of this section "Building" means a building for which a building permit was issued prior to April 1, 2002.
- D. For purposes of this section "Vacant" means that portion of a Building which is unoccupied at the time that the application for the permit for the improvements is made.
- E. This Section shall be effective until April 30, 2008.

SECTION 2. Retroactive Application – Refunds.

Section 4.46.039.8 shall be effective retroactive to November 1, 2006 for taxes that were due to the City during the period between November 1, 2006 and the effective date of this Ordinance. Any taxes paid for building permits which are issued between November 1, 2006 and the effective date of this Ordinance which would have otherwise qualified for suspension under Section 4.46.039.8 as amended by this Ordinance, shall be eligible for a refund if the person or entity which paid the taxes applies for a refund after the effective date of this Ordinance but not later than January 31, 2007.

PASSED FOR PUBLICATION of title this 24th day of October, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,
NGUYEN, PYLE, REED, WILLIAMS, YEAGER;
GONZALES

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk