

RESOLUTION NO. ____ -2023

RESOLUTION OF THE FORT BRAGG CITY COUNCIL EXTENDING THE WATER CAPITAL IMPROVEMENT FEE DEFERMENT FOR RESTAURANTS, CAFES, AND COFFEE SHOPS IN THE CENTRAL BUSINESS DISTRICT AND REQUESTING THAT THE WASTEWATER CAPITAL IMPROVEMENT FEE BE SIMILARLY DEFERRED AND DECLARING THE DEFERMENT EXEMPT FROM CEQA UNDER 14 CCR15273(a)(4)

WHEREAS, pursuant to Resolution No. 2462-2000, the City of Fort Bragg imposes a Water Capital Improvement Fee (“Fee”) to fund capital improvements to the City’s water system; and

WHEREAS, the Fee is a “capacity charge” as that term is defined in Government Code Section 66013; and

WHEREAS, the Fee is collected in connection with the establishment of a new water connection or any change in occupancy of structure served by an existing water connection; and

WHEREAS, the Fee does not exceed the reasonable cost of providing service to structures/occupancies that create new demands upon the City’s water system; and

WHEREAS, pursuant to Resolution No. 2462-2000, the rate of the Fee is indexed against the Construction Cost Index published by the Engineering News Record in order to keep pace with inflation; and

WHEREAS, small businesses located in the Central Business District were economically disproportionately impacted during the COVID-19 pandemic and associated State and County Shelter-in-Place orders; and

WHEREAS, businesses in the Central Business District have closed or downsized their retail presence during the COVID-19 pandemic and associated State and County Shelter-in-Place orders in greater numbers than businesses located in the rest of the City; and

WHEREAS, the number of vacant storefronts in the Central Business District continues to impact the economic vitality of the downtown Central Business District; and

WHEREAS, the historic downtown Central Business District is an important aspect of and asset to the City’s tourism-based economy; and

WHEREAS, essentially all of the businesses in the Central Business District have been and continue to be small unique enterprises that make the Fort Bragg Central Business District an attraction for visitors and encourages those visitors to stroll through the shops, and Fee deferrals may allow businesses to establish new uses in vacant buildings and thereby improving the overall vitality of the downtown area; and

WHEREAS, lack of food service businesses in the Central Business District, particularly on Franklin Street, has been cited as a contributing factor to the increase in

vacant buildings. The lack of food service businesses has also been blamed as partially responsible for the limited hours of operation in the Central Business District, which in turn reduces the pedestrian traffic; and

WHEREAS, the City Council desires to create a Water Capital Improvement Fee deferral program to encourage the development of food service businesses in the Central Business District; and

WHEREAS, the City Council desires that a complementary deferral program be created by the District Board of Fort Bragg Municipal Improvement District No. 1 in connection with the Sewer Capital Improvement Fee; and

WHEREAS, the City Council on December 27, 2021, by Resolution No. 4495-2021, resolved to temporarily defer the Water Capital Improvement Fee and the Wastewater Capital Improvement Fee for Restaurants, Cafes and Coffee Shops in the Central Business District; and

WHEREAS, the Fee deferment expires December 31, 2023 and may be extended by the City Council until December 31, 2025.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fort Bragg that:

1. Based on all the evidence presented, the City Council finds as follows:
 - a. The foregoing recitals are true and correct and are made a part of this Resolution.
 - b. The continued deferral of the Water Capital Improvement Fee could result in encouraging potential Restaurant, Cafe, and Coffee Shop businesses (as defined in the City's Inland Land Use & Development Code) to expand their existing use or engage in new enterprises in the Central Business District; and
 - c. Expanded and newly established Restaurant, Cafe, and Coffee Shop businesses in the Central Business District would add additional pedestrian traffic to the neighborhood and create a destination or anchor that would benefit other businesses in the Central Business District; and
 - d. The continued deferral of the Water Capital Improvement Fee is consistent with the City's Priority Area 1: Jobs/Industry and Goal 3 - Foster and help sustain local businesses.
2. At the request of an applicant, the City shall defer collection of the Water Capital Improvement Fee where such fee would otherwise be due in connection with a change in occupancy in the Central Business District to the extent the resulting occupancy is a Restaurant, Cafe or Coffee Shop. No applicant shall be required by the City to request a deferral.
3. Such deferral may only be requested in connection with a building permit that is issued no earlier than the date of this Resolution and no later than December 31, 2025.
4. The deferred Fee may be paid to the City at any time; the amount due shall

be calculated based on the Fee that would be due if the change in use occurred at the time the Fee is actually paid (ie, the then-current rate schedule will apply; not the schedule that was in effect at the time deferral was granted).

5. If a subsequent change in use occurs at a property for which the Fee has been deferred and not repaid, the Fee in connection with that change in use shall be calculated as if the existing use on the property was the use that existed before change in use for which the Fee was deferred. Payment of the fee thus calculated at the then-current rates shall satisfy deferred fee and the fee then due.
6. It is the intent of the City Council that the City will loan from the General Fund to the Water Capital Fee Fund such amounts as are necessary to ensure that the deferral of Fees does not delay the improvement of the water system.
7. Staff shall maintain as a public record a list of locations that have been granted a deferral pursuant to this Resolution.
8. The Master Fee Schedule shall be amended to reference to this Resolution; to summarize the deferral program established by this Resolution; and to advise of the existence of the list maintained pursuant to Section 7 of this Resolution and the methods for obtaining such list.
9. The following terms shall have the following meanings:
 - a. "Restaurant, Café or Coffee Shop" shall have the same meaning as set forth in the Inland Land Use & Development Code.
 - b. "Central Business District" shall mean the CBD Zoning District as established under the Inland Land Use & Development Code.
10. The City Council requests that the District Board of Fort Bragg Municipal Improvement District No. 1 create a similar deferral program for the Sewer Capital Improvement Fee. If the Board creates such a program, it is the intent of the City Council that the City will loan from its General Fund to the District's Sewer Capital Fee Fund such amounts as are necessary to ensure that the deferral of Fees does not delay the improvement of the District's wastewater system.
11. The action taken by this Resolution is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Title 14, the California Code of Regulations ("CEQA Guidelines"), Section 15273(a)(4) which provides an exception for modifications to fees for the purpose of obtaining funds for capital projects necessary for maintaining service within existing service areas; and
12. This Resolution shall become effective upon its adoption.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a special meeting of the City Council of the City of Fort Bragg held on the 11th day of December, 2023, by the following vote:

**AYES:
NOES:**

**ABSENT:
ABSENT:
ABSTAIN:
RECUSED:**

**Bernie Norvell
Mayor**

ATTEST:

**Cristal Munoz,
Acting City Clerk**