

RESOLUTION NO. ID ____-2021

**RESOLUTION OF THE DISTRICT BOARD OF FORT BRAGG
MUNICIPAL IMPROVEMENT DISTRICT NO. 1 TEMPORARILY
DEFERRING THE SEWER CAPITAL IMPROVEMENT FEE FOR
RESTAURANTS, CAFES, AND COFFEE SHOPS IN THE CENTRAL
BUSINESS DISTRICT**

WHEREAS, pursuant to Section 14.24.060 of the Fort Bragg Municipal Code, the District collects and sets the rate of a Sewer Capital Improvement Fee (the “Fee”) to fund capital improvements to the District’s wastewater 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 sewer connection or any change in occupancy of structure served by an existing sewer connection; and

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

WHEREAS, pursuant to Resolution No. ID 203-2001, 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;

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 of the City of Ft. Bragg has created a deferral program for Water Capital Improvement Fees for food service businesses in the Central Business District; and

WHEREAS, the City Council has requested that the Board create a similar program from the Sewer Capital Improvement Fee; and

WHEREAS, the City Council has stated its intent that the City will loan from its General Fund to the Sewer Capital Fee Fund such amounts as are necessary to ensure that the deferral of Fees does not delay the improvement of the wastewater system.

WHEREAS, the Board desires to create a deferral program in connection with the Sewer Capital Improvement Fee.

NOW, THEREFORE, BE IT RESOLVED by the District Board of Fort Bragg Municipal Improvement District No. 1 that:

1. Based on all the evidence presented, the Board finds as follows:
 - a. The foregoing recitals are true and correct and are made a part of this Resolution.
 - b. A temporary deferral of the Sewer 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. A temporary deferral of the Sewer 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 District shall defer collection of the Sewer 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 District 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, 2023.
4. The deferred Fee may be paid to the District 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. The City will loan from the General Fund to the Wastewater Capital Fee Fund such amounts as are necessary to ensure that the deferral of Fees does not delay the improvement of the Wastewater 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 6 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 City's Inland Land Use & Development Code.
 - b. "Central Business District" shall mean the CBD Zoning District as established under the City's Inland Land Use & Development Code.
10. 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
11. This Resolution shall become effective upon its adoption.

The above and foregoing Resolution was introduced by Boardmember _____, seconded by Boardmember _____, and passed and adopted at a special meeting of the District Board of Fort Bragg Municipal Improvement District No. 1 held on the 27th day of December, 2021, by the following vote:

**AYES:
NOES:
ABSENT:
ABSENT:
ABSTAIN:
RECUSED:**

BERNIE NORVELL
Chair

ATTEST:

June Lemos, CMC
Board Clerk