

RESOLUTION NO. 24 - 127

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA SETTING UPDATED CHARGES FOR WATER SYSTEM CAPACITY FEE (BENICIA MUNICIPAL CODE SECTION 13.12.050) AND SEWER SYSTEM CAPACITY FEES (BENICIA MUNICIPAL CODE SECTION 13.52.040)

WHEREAS, the Benicia Municipal Code (“BMC”) imposes upon new development or redevelopment the requirement to pay a Water System Capacity Fee (BMC§ 13.12.050), and a Sewer System Capacity Fee (BMC § 13.52.040) in addition to other Mitigation Fees; and

WHEREAS, BMC Section 13.12.050(C) empowers the City Council to establish the amount of the Water System Capacity Fee by resolution in accordance with a study that demonstrates that the fees do not exceed the estimated reasonable cost of providing the service for which the fees are imposed; and

WHEREAS, BMC Section 13.52.040(C) empowers the City Council to establish the amount of Sewer System Capacity Fee by resolution in accordance with a fee study that demonstrates that the fees do not exceed the estimated reasonable cost of providing the service for which the fees are imposed; and

WHEREAS, in 2020, the City, conducted the required fee study that demonstrates that the proposed Water and Sewer System Capacity Fees do not exceed the estimated reasonable cost of providing the service for which the fees are imposed; and

WHEREAS, the fee studies supporting the increases to the water and sewer system capacity fees are set forth in the City of Benicia Water & Wastewater Capacity Fee Update Report, dated November 2020, by Bartle Wells Associates (the “2020 Capacity Fee Update”); and

WHEREAS, the 2020 Capacity Fee Update substantiated the need for the updates to Water and Sewer System Capacity Fees, incorporating a conservative estimate of the costs of services at a 75% cost recovery, and those updated fees were presented to and adopted by Council by resolution January 5, 2021; and

WHEREAS, the City Council desires to now update the water and sewer capacity fees based on the reasonable estimate of costs based on a 90% cost recovery scenario as set forth in the 2020 Capacity Fee Update, and the City obtained a Supplement to the 2020 Water & Wastewater Capacity Fee Update to confirm the reasonableness of the 2020 cost estimates to include the 90% cost recovery scenario plus annual cost of living adjustments based on the ENR Construction Cost Index; and

WHEREAS, the City desires to adopt the updated fees, attached hereto as Exhibit 1, which are in accordance with the calculations and recommendations contained in the Supplement to the *2020 Water & Wastewater Capacity Fee Update*, which incorporates the 90% cost recovery scenario plus an approximately 20.14% escalation adjustment based on the Engineering

News-Record Construction Cost Index (ENR CCI) for the San Francisco Area using the percent change from the January 2020 base index of 12,806.17 (the index corresponding with the facility valuations used in the 2020 Capacity Fee Update) to the October 2024 index of 15,385.40; and

WHEREAS, consistent with Benicia Municipal Code Sections 13.12.050(E)(2) and 13.52.040(E), the capacity fees will be subject to automatic adjustments effective each July 1 starting July 1, 2025 based on the change in the ENR CCI for the San Francisco Area; and

WHEREAS, the City may exercise its authority to implement ENR adjustments under Benicia Municipal Code Sections 13.12.050(E)(2) and 13.52.040(E) either: (a) each year as the annual adjustment is authorized to be made, or (b) as a multi-year or catch-up calculation to incorporate adjustments from one or more previously authorized annual adjustments in a single adjustment; and

WHEREAS, the City's Housing Element of the General Plan, adopted in 2015, acknowledges that it is in the City's interest to ensure adequate housing is available for all levels of the workforce, including those who are below the City's median household income. It lists many goals aimed at facilitating development of affordable housing, including "fast-tracking" review of projects that include affordable housing (Policy 1.02), affordable housing education programs to implement the Housing element (Policy 1.03); and continuing to provide incentives for affordable housing (Policy 1.05). The City's Inclusionary Housing Ordinance also sets forth the City's commitment to enhancing the public welfare and assuring that further housing development contributes to the attainment of the housing goals of the City by increasing the production of affordable housing units; and

WHEREAS, to support and encourage the development of new affordable housing units, as defined by BMC section 17.70.030, in the City and to help implement the aforementioned Housing Element Policies, the City desires to provide a reduction of up to 50% of the Capacity Fees for affordable housing units in residential development projects. The percentage of reduction will be equal to the percentage of affordable units provided in the residential development project, but the reduction will be capped at 50%; and

WHEREAS, pursuant to Government Code sections 66013, 66016, 66017, and 6062a and the Benicia Municipal Code, the City must adopt the updated Capacity Fees only after notice and public meeting; and

WHEREAS, pursuant to Government Code section 6062a, a notice of a public meeting on the proposed fee schedule was published on November 8, 2024 and November 15, 2024 in the *Benicia Herald*, a newspaper of general circulation; and

WHEREAS, pursuant to Government Code sections 66013 and 66016, notice of the time and place of the meeting, including a general explanation of the matters to be considered and a statement that required data is available was mailed at least 14 days prior to the meeting to those members of the public who filed a written request with the City; and

WHEREAS, at least ten (10) days prior to the public hearing referenced above, the City

made available for public inspection information required under government Code section 66000, *et. seq.*; and

WHEREAS, on November 19, 2024, the City Council held a noticed public meeting to consider the City’s proposed updates to the water and sewer capacity fees at which time all interested persons were given an opportunity to comment.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves and adopts the water capacity fees and the sewer capacity fees as shown in **Attachment A**, incorporated by this reference. These updated fees set forth in Attachment A shall be in full force and effect 60 days after adoption of this Resolution; and, as of that effective date shall supersede any previously enacted water capacity fees and sewer capacity fees. (see Government Code Section 66017.)

Section 1. **Validity.** The above recitations are true and correct, are material to the adoption of this Resolution, and are incorporated herein by reference.

Section 2. **Environmental review.** The City Council finds that this Resolution is not subject to the California Environmental Quality Act (“CEQA”). This action is not a project within the meaning of the CEQA Guidelines Section 15378 and 15061(b)(3) as it has no potential for physical effects on the environment because it involves an adoption of certain fees and/or charges imposed by the City, does not commit the City to any specific project, and said fees and/or charges are applicable to future development projects and/or activities, each of which future projects and/or activities will be fully evaluated in full compliance with CEQA when sufficient physical details regarding said projects and/or activities are available to permit meaningful CEQA review (see CEQA Guidelines, Section 15004(b)(1)). Pursuant to CEQA Guidelines section 15378(b)(4), the creation of government funding mechanisms which do not involve any commitment to any specific project which may cause significant effect on the environment, is not defined as a “project” under CEQA. Therefore, approval of the fees and/or charges is not a “project” for purposes of CEQA, pursuant to CEQA Guidelines, Section 15378(b)(4); and, even if considered a “project” under CEQA, is exempt from CEQA review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that approval of the fees and/or charges may have a significant effect on the environment.

Section 3. **Severability.** Should any section, subsection, paragraph, sentence, clause, or phrase of this Resolution be declared unconstitutional or invalid for any reason, such declaration shall not affect the validity of the remaining portions of this Resolution.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 4. The City Clerk shall certify the adoption of this Resolution and shall cause a certified Resolution to be filed in the Office of the City Clerk.

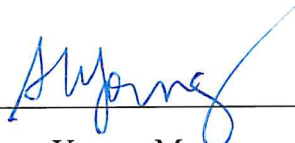
On motion of Council Member **Macenski**, seconded by Council Member **Birdseye**, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 19th day of November 2024 by the following vote:

Ayes: **Council Members Birdseye, Campbell, Macenski, Scott, and Mayor Young**

Noes: **None**

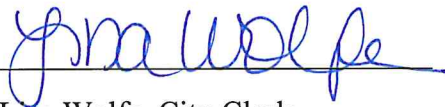
Absent: **None**

Abstain: **None**

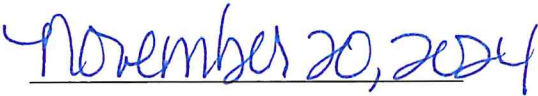


Steve Young, Mayor

Attest:



Lisa Wolfe, City Clerk



Date

Exhibit A
Water and Sewer Capacity Fee Update
[see next page]

EXHIBIT A
WATER CAPACITY FEES

Land Use	Water Capacity Fees (Based on ENR-CCI for San Francisco as of October 2024: 15385.40)
Residential	<i>Fee Amount per Unit</i>
Single Family Unit	\$17,909
Multifamily Unit	\$12,211
Accessory Dwelling Unit [1]	\$6.39 per square foot
Affordable Housing Unit [2]	<i>varies by percentage of affordable housing units created</i>
Nonresidential	<i>Fee Amount per Meter Size</i>
Up to 3/4-inch	\$17,909
1-inch	\$29,848
1-1/2-inch	\$59,697
2-inch	\$95,514
3-inch	\$179,089
4-inch	\$298,481
6-inch	\$596,960
8-inch	\$955,138
[1] ADUs are currently charged a fixed capacity fee. However, pursuant to SB 13 (effective 1/1/2020-12/31/2024), the updated water capacity fee structure charges a per square foot fee for all ADUs.	
[2] Each affordable housing unit constructed as part of a multi-family residential development project shall pay a reduced fee that is equal to the percentage of affordable housing units created by the project, rounded up to the nearest whole percent, and capped at 50%. For example, if a 20-unit multi-family housing development included 9 affordable housing units (45%), then the impact fees charged for the affordable housing units in the multi-family development project would be reduced by 45%.	

EXHIBIT A
SEWER CAPACITY FEES

Land Use	Sewer Capacity Fees (Based on ENR-CCI for San Francisco as of October 2024: 15385.40)		
Residential	<i>Fee Amount Per Unit</i>		
Single Family Unit	\$20,659		
Multifamily Unit	\$19,070		
Accessory Dwelling Unit [1]	\$7.38 per square foot		
Affordable Housing Unit [2]	<i>varies by percentage of affordable housing units created</i>		
Nonresidential	<i>Fee Amount per Meter Size and Strength Classification</i>		
<u>Meter Size</u>	<u>Class A</u>	<u>Class B</u>	<u>Class C</u>
Up to 3/4-inch	\$26,334	\$28,787	\$33,003
1-inch	\$43,838	\$47,924	\$54,941
1-1/2-inch	\$87,826	\$96,013	\$110,069
2-inch	\$140,492	\$153,588	\$176,073
3-inch	\$263,330	\$287,874	\$330,021
4-inch	\$438,834	\$479,734	\$549,972
6-inch	\$877,818	\$959,633	\$1,100,132
8-inch	\$1,404,479	\$1,535,380	\$1,760,173
Industrial & Non-Standard Commercial	<i>Fee Amount Based on Estimated Sewer Flow and Strength Loadings</i>		
Flow Charge (per gpd)	\$135.67		
BOD Charge (per lb/year)	\$17.59		
SS Charge (per lb/year)	\$12.95		
[1] ADUs are currently charged a fixed capacity fee. However, pursuant to SB 13 (effective 1/1/2020-12/31/2024), the updated sewer capacity fee structure charges a per square foot fee for all ADUs.			

[2] Each affordable housing unit constructed as part of a multi-family residential development project shall pay a reduced fee that is equal to the percentage of affordable housing units created by the project, rounded up to the nearest whole percent, and capped at 50%. For example, if a 20-unit multi-family housing development included 9 affordable housing units (45%), then the impact fees charged for the affordable housing units in the multi-family development project would be reduced by 45%.