

ORDINANCE NO. 67

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
SAN BENITO COUNTY WATER DISTRICT
(REPEALING AND REESTABLISHING CAPACITY FEES WITHIN THE
DISTRICT'S ZONE 6 SERVICE AREA;
ADDING CHAPTER 4.53 TO THE DISTRICT CODE)**

**BE IT ORDAINED BY THE BOARD OF
DIRECTORS OF THE SAN BENITO
COUNTY WATER DISTRICT THAT
ORDINANCE NO. 67 IS ENACTED AS
FOLLOWS:**

1. Repeal of Ordinance No. 66. The San Benito County Water District ("District") was alerted that it failed to provide prior notice of Ordinance No. 66 to authorized representatives of the Bay Area Building Industry Association ("BIA"), as required by Government Code section 66016(a). To address the risk of litigation by the Bay Area BIA, the District is repealing the capacity fees established by Ordinance No. 66, refunding any capacity fees collected since the Ordinance took effect, and reestablishing those capacity fees through adoption of Ordinance No. 67.
2. Authority. Pursuant to the Water Code Appendix sections 70-6 and 70-9.2, the District has the express authority to impose fees and charges for water service by any and every lawful act necessary for a sufficient water supply to be available for present and future beneficial use, and to establish such fees and charges by ordinance. District ordinances shall be adopted pursuant to the same procedures applicable to the County of San Benito. The District adopts this Ordinance to establish capacity fees for all new water service connections that will receive treated water from the District's wholesale water customers within the District's Zone 6 service area, as the boundaries of Zone 6 may be amended from time to time, including the Sunnyslope County Water District and the City of Hollister, as well as potential future customers in the City of San Juan Bautista, pursuant to sections 66013 and 66016 of the California Government Code.
3. Findings. The following findings are adopted by the Board.
 - a. The District owns water treatment plants in the Hollister Urban Area that deliver treated water to the District's wholesale water customers, which provide municipal and industrial water service within those customers' respective service areas. These wholesale customers include the Sunnyslope County Water District and the City of Hollister. The District contemplates that the City of San Juan Bautista may be added as a wholesale water customer.

- b. The District manages local and imported surface water through the San Benito River System and the San Felipe Distribution System in order to deliver imported Central Valley Project (“CVP”) water to the aforementioned retail water agencies.
- c. The District’s 2023 San Benito Urban Areas Water Supply and Treatment Master Plan Update states that current urban water demands are approximately 5,560 acre-feet per year (“AFY”), and that, due to anticipated urban growth, projected urban water demands will be approximately 12,500 AFY by 2045. Because existing water supplies cannot satisfy anticipated future demand, the 2023 San Benito Urban Areas Water Supply and Treatment Master Plan Update identifies potential future projects that can provide supplemental water supplies for new development.
- d. The District finds that new growth within the District’s Zone 6 which will receive treated water from District-owned treatment facilities should pay a fair share of the cost of future projects that can provide supplemental water supplies for new development and that existing customers should not subsidize the cost of providing supplemental water for new growth.
- e. The capacity fees established herein are for the purposes of funding capital projects and improvements necessary to provide supplemental water for new growth within the District’s Zone 6.
- f. Pursuant to Government Code section 66016.6, the District prepared a Water Capacity Fee Report (“Capacity Fee Study”) to evaluate capacity fees that can be charged to new development to fund the costs of supplemental water supplies that do not exceed the estimated reasonable cost of providing water service.
- g. Pursuant to Government Code sections 66016(a) and 66016.6, at least 14 days prior to the first reading of Ordinance No. 67, held on November 19, 2025, the District posted on its website, shared with interested stakeholders, and made available to at its district office, located at 30 Mansfield Road in Hollister, California, the Capacity Fee Study containing evidence that demonstrates the capacity fees do not exceed the estimated reasonable cost of providing service.
- h. The District’s decision to adopt capacity fees is not subject to environmental review under the California Environmental Quality Act (“CEQA”). First, the capacity fees, in and of themselves, do not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore are not considered a

“project” under CEQA. (Pub. Resources Code, § 21065; 14 Cal. Code Regs., § 15378, subd. (a).) Further, capacity fees are a government funding mechanism that does not involve any commitment by the District to any specific project which may result in a potentially significant physical impact on the environment. (14 Cal. Code Regs., § 15378, subd. (b)(4).)

- i. The capacity fees will not be levied as an incident of property ownership but are levied solely at the request of a property owner or its agency for the privilege of gaining access to water supplies from the District’s treated water system and related facilities.
 - j. The capacity fees for new connections do not involve rates, delivery charges, or fixed monthly charges for water delivery or treatment. The capacity fees are imposed only as a condition of receiving water service through new connections.
 - k. The capacity fees adopted by this Ordinance do not exceed the estimated reasonable costs of providing the services for which the fees or charges are imposed.
4. Adoption of Water Capacity Fee Report. The capacity fees reflected in the Capacity Fee Study are hereby adopted as the new capacity fees for all new water service connections that will receive treated water from the District’s wholesale water customers within the District’s Zone 6 service area, as the boundaries of Zone 6 may be amended from time to time, including the Sunnyslope County Water District and the City of Hollister as well as potential future customers in the City of San Juan Bautista.
5. Addition of Chapter 4.53 to the District Code. Chapter 4.53 shall be added to the District Code of Regulations setting forth the capacity fees adopted pursuant to this Ordinance, and shall read in full as follows:

Chapter 4.53 – CAPACITY FEES

4.53.010 – Purpose and intent.

The purpose and intent of this Chapter is to set forth the rules and regulations that shall apply to capacity fees for new water service connections that will receive treated water from the District’s wholesale water customers within the Zone 6 service area, as the boundaries of Zone 6 may be amended from time to time, including the Sunnyslope County Water District and the City of Hollister, as well as potential future customers in the City of San Juan Bautista.

4.53.020 – Applicability.

The capacity fees established by this Ordinance shall apply to new water service connections that will receive treated water from the District's wholesale water customers within the District's Zone 6 service area, as the boundaries of Zone 6 may be amended from time to time, including the Sunnyslope County Water District and the City of Hollister, as well as potential future customers in the City of San Juan Bautista.

4.53.030 – Effective date.

The capacity fees shall take effect at 12:01 a.m. on the sixty-first day following the final Board action on the adoption of the capacity fee or an increase thereto.

4.53.040 – Capacity fees.

A capacity fee for the right of service in existing, proposed, and pending water supply, treatment, storage, transmission, and distribution facilities of the District shall be payable to the District for all new water service connections that will receive treated water from the District's wholesale water customers within the District's Zone 6 service area, as the boundaries of Zone 6 may be amended from time to time, including the Sunnyslope County Water District and the City of Hollister, as well as potential future customers in the City of San Juan Bautista. The capacity fees shall be in the amounts set forth in Appendix A of this Chapter, incorporated herein by reference.

4.53.050 – Adjustment of capacity fees.

The capacity fees shall be automatically adjusted each July 1 using the Consumer Price Index for the San Francisco Bay Area—All Urban Index for May of the then current year and May of the previous year.

4.53.060 – Payment of all fees.

No property or facility within the boundaries of the District's Zone 6 service area, as the boundaries of Zone 6 may be amended from time to time, shall be eligible to receive treated water from the District's wholesale water customers, including the Sunnyslope County Water District and the City of Hollister, as well as potential future customers in the City of

San Juan Bautista, until all applicable capacity fees are paid in full. The full payment of all applicable capacity fees shall be due prior to obtaining the respective building permit(s) for the development project.

4.53.070 – Effect of Repeal or Amendment on Past Actions and Obligations.

This Ordinance does not affect prosecutions for ordinance violations committed prior to the effective date of this Ordinance, does not waive any fee or penalty due and unpaid on the effective date of this Ordinance, and does not affect the validity of any bond or case deposit posted, filed, or deposited pursuant to the requirements of any ordinance.

4.53.080 – Expiration of building permit.

If a building permit expires, those capacity fees previously paid in relation thereto shall not be refunded. If a new building permit is subsequently sought for the same parcel, a capacity fee shall be paid prior to issuance of a new permit. The amount of the capacity fee shall be the current capacity fee less the prior amount paid.

4.53.090 – Fee limitation.

The capacity fees adopted by this Ordinance shall not exceed the estimated reasonable costs of providing the services for which the capacity fees are imposed. Any charges that exceed the reasonable costs of providing the service shall be refunded.

4.53.100 – Record of fees.

The District shall keep accurate records concerning the collection of capacity fees. Such records shall set forth the amount of capacity fees paid for each parcel of land, building, or improvement within the District's Zone 6 boundaries.

4.53.110 – Rounded fees.

Capacity fees shall be rounded to the nearest dollar.

4.53.120 – Appeals.

An appeal from any decision or determination made pursuant to this Chapter may be made to the Board of Directors. Any such appeal shall be in writing and shall be filed with the District’s Manager of Administration, Finance, and Business Services within 15 days after the decision or determination. In the absence of such an appeal, the decision or determination shall be deemed final. In the event of such an appeal, the decision or determination appealed shall be final upon the final decision reached by the Board of Directors upon such an appeal.

- 6. Effective Date of Ordinance. Pursuant to Government Code section 66017(a), this ordinance shall become effective and in full force and effect at 12:01 a.m. on the sixty-first day after its final passage.
- 7. Publication. Within 15 days after its passage, this Ordinance shall be published once in a newspaper of general circulation in the County of San Benito, State of California, together with the names of the members of the Board of Directors voting for and against the same.

PASSED AND ADOPTED this 17th day of December 2025, by the San Benito County Water District Board of Directors by the following vote:

AYES:	DIRECTORS:	Williams, Wright, Flores, Freeman & Tonascia
NOES:	DIRECTORS:	None
ABSENT:	DIRECTORS:	None
ABSTAIN:	DIRECTORS:	None

(Signature of presiding Board member
Attested by Board Secretary
Ordinance #67)

/s/Doug Williams
Doug Williams
President

ATTEST: /s/Barbara L. Mauro
Barbara L. Mauro
Board Secretary