

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Sections 203(3) and (11) and 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216); D.C. Official Code §§ 34-2202.03(3) and (11), and § 34-2202.16 (2012 Repl.); and Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a) (2016 Repl.)), hereby gives notice that at its regularly scheduled meeting on March 1, 2018, the Board adopted Resolution #18-29 to propose the amendment of Sections 112 (Fees) and 199 (Definitions) of Chapter 1 (Water Supply) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rulemaking is to amend the System Availability Fee (SAF) regulations and add relevant definitions. The proposed amendments include the following:

- Maintained the effective date of the SAF regulations as June 1, 2018.
- Revised the DC Water guidance document used to determine the SAF meter size from DC Water Standard Details and Guideline Masters to DC Water's Meter Sizing Instructions and Worksheets.
- Added procedures and requirements to receive credits for affordable housing unit (AHU) development and redevelopment. Below are example SAF calculations for projects with AHUs:

- 1) For a new residential development that includes 1 AHU with a 1 inch SAF meter size:

AHU credit is \$3,944, and the Net SAF = \$3,944 (SAF) - \$3,944 (AHU credit) = 0.
No SAF charged.

- 2) For a residential redevelopment project that had a 2 inch meter, replaces 1 AHU, and has a 1.5 inch SAF meter size:

Net SAF = \$19,082 (1.5" SAF) - \$38,661 (2" SAF Credit) - 0 (Net AHU = 1-1)
= - \$19,579. No SAF charged.

- 3) For a new multi-family development project that has 100 residential units with 30 AHUs and a 3 inch SAF meter size:

Net SAF = \$112,942 (3" SAF) - \$33,882 (30% of SAF) = \$79,094.

- 4) For a multi-family redevelopment project that had 100 residential units and 20 AHUs with a 3 inch meter, and redevelops 100 residential units with 30 AHUs and a 3 inch SAF meter size:

Net SAF = \$112,942 (3” SAF) – \$112,942 (3” SAF Credit) – \$11,294 (10% SAF = ((30-20)/100) x \$112,942) = - \$11,294. No SAF charged.

- Clarified the requirements for projects submitted prior to the effective date of June 1, 2018 and approved by June 1, 2019.
- Added formulas to clarify how the SAF is calculated with the SAF Credit, AHU Credit and Net AHU Credit.
- Clarified requirements for Payment Plan Agreement.

The Board requests comments on these proposed regulations and comments.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 1, WATER SUPPLY, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:

Section 112, FEES, is amended by revising the effective date of Subsection 112.11 to read as follows:

112.11 Effective June 1, 2018, DCRA Construction Permit Applicants and federal facilities shall be assessed a System Availability Fee (SAF) for new water and sewer connections and renovation or redevelopment projects for existing connections to the District’s potable water and sanitary sewer systems based on the SAF meter size in accordance with the following fee schedule and requirements:

- (a) Residential customers shall be charged a System Availability Fee based on the SAF meter size as listed below:

SAF Meter Size (inches)	Water System Availability Fee	Sewer System Availability Fee	Total System Availability Fee
5/8”	\$ 1,135	\$ 2,809	\$ 3,944
3/4”	\$ 1,135	\$ 2,809	\$ 3,944
1”	\$ 1,135	\$ 2,809	\$ 3,944
1”x1.25”	\$ 2,047	\$ 5,066	\$ 7,113
1.5”	\$ 5,491	\$ 13,591	\$ 19,082
2”	\$ 11,125	\$ 27,536	\$ 38,661
3”	\$ 32,500	\$ 80,442	\$ 112,942

- (b) Multi-Family and all Non-Residential customers shall be charged a System Availability Fee based on the SAF meter size as listed below:

SAF Meter Size (inches)	Water System Availability Fee	Sewer System Availability Fee	Total System Availability Fee
1” or smaller	\$ 1,282	\$ 3,173	\$ 4,455

SAF Meter Size (inches)	Water System Availability Fee	Sewer System Availability Fee	Total System Availability Fee
1"x1.25"	\$ 2,047	\$ 5,066	\$ 7,113
1.5"	\$ 5,491	\$ 13,591	\$ 19,082
2"	\$ 11,125	\$ 27,536	\$ 38,661
3"	\$ 32,500	\$ 80,442	\$ 112,942
4"	\$ 83,388	\$ 206,394	\$ 289,782
6"	\$ 229,246	\$ 567,408	\$ 796,654
8"	\$ 229,246	\$ 567,408	\$ 796,654
8"x2"	\$ 229,246	\$ 567,408	\$ 796,654
8"x4"x1"	\$ 229,246	\$ 567,408	\$ 796,654
10"	\$ 229,246	\$ 567,408	\$ 796,654
12"	\$ 229,246	\$ 567,408	\$ 796,654
16"	\$ 229,246	\$ 567,408	\$ 796,654

- (c) The SAF meter size shall be computed for the peak water demand, excluding fire demand in accordance with D.C. Construction Codes Supplement, as amended, Chapter 3 (Water Meters) of this title, and DC Water’s Meter Sizing Instructions and Worksheets.
- (d) The SAF shall be assessed for any premise, building or structure that requires a new metered water service connection to the District’s potable water and/or sanitary sewer systems.
- (e) The Net SAF shall be assessed for renovation or redevelopment projects for any premise, building or structure that uses an existing metered water service connection to the District’s potable water and/or sanitary sewer systems.
- (f) For a renovation or redevelopment project on a property that already had/has a DC Water meter(s) and account(s), DC Water shall determine the Net SAF based on the difference between the property’s new System Availability Fee determined by the SAF meter size(s) (SAF) and the SAF Credit determined by the old meter size(s) for the meters(s) being removed from the system:

$$\text{Net SAF} = \text{SAF} - \text{SAF Credit}$$

- (g) Properties under renovation or redevelopment shall not receive a SAF Credit for the DC Water account(s) that have been inactive for more than twenty-four (24) months prior to DC Water’s issuance of the Certificate of Approval.
- (h) For any new premise, building or structure that includes one or more affordable housing unit (AHU), DC Water shall also provide an AHU Credit equal to:

- (1) AHU Credit - Three Thousand Nine Hundred Forty-Four dollars (\$3,944) for each AHU in a metered residential structure of three (3) or less units (e.g., single-family structure, townhouse, condominium, cooperative housing association unit, or apartment).
- (2) % AHU Credit or % Net AHU Credit - The percentage of affordable housing units credit (% AHU credit) or percentage of additional AHU credit (% Net AHU Credit) in a metered multi-family residential structure of four or more housing units (condominium, cooperative housing association, or apartment) determined as follows: % AHU (or % Net AHU) equals the number of AHUs (or Net AHU) divided by total number of residential units (RU) times one hundred (100) times the SAF:

$$\% \text{ AHU} = (\text{AHU} \div \text{RU}) \times 100$$

$$\text{AHU Credit} = \% \text{ AHU} \times \text{SAF}$$

- (i) For a renovation or redevelopment project that includes replacing existing affordable housing units and/or the construction of additional affordable housing units, DC Water shall provide a Net AHU Credit as provided in Section 112.11(h) based on the percentage of additional affordable housing units (% Net AHU) determined as follows: % Net AHU equals the number of additional AHUs (Net AHU) divided by the total number of residential units times one hundred (100):

$$\% \text{ Net AHU} = ((\text{Net AHU}) \div \text{RU}) \times 100$$

$$\text{Net AHU Credit} = (\% \text{ Net AHU}) \times \text{SAF}$$

- (j) The Net AHU shall be determined based on the difference between the total number of affordable housing units constructed after completing the renovation/redevelopment project (aAHU) and the total number of affordable housing units existing prior to the renovation/redevelopment project (bAHU). If aAHU is less than bAHU (less than zero), no Net AHU Credit will be provided:

$$\text{Net AHU} = (\text{aAHU} - \text{bAHU})$$

- (k) Projects that request AHU or Net AHU Credits shall submit one or more of the following documents:

- (1) Land Disposition Development Agreement;
- (2) Zoning Commission Order;
- (3) Planned Unit Development Covenant;

- (4) Certificate of Inclusionary Zoning; or
 - (5) Letter from the District financing agency that establishes the number of AHU in the property.
- (l) If the Net System Availability Fee (less AHU Credit or Net AHU Credit) is zero or less, no System Availability Fee shall be charged.
 - (m) If the Net System Availability Fee (less AHU Credit or Net AHU Credit) is greater than zero, DC Water shall assess the System Availability Fee.
 - (n) DC Water may request documentation to confirm the number of proposed affordable housing units that were actually constructed. If the number of constructed AHUs is less than the proposed AHUs, DC Water shall bill the property owner the amount of the AHU Credit or Net AHU Credit for the unconstructed AHUs.
 - (o) For DCRA Construction Permit applicants, payment of the System Availability Fee shall be a condition for DC Water's issuance of the Certificate of Approval.
 - (p) DCRA Construction Permit applicants that submitted plans and specifications to DC Water prior to the effective date of these regulations, shall not be subject to the System Availability Fee provided:
 - (1) The DC Water Engineering Review fee(s) has been paid;
 - (2) The plans, specifications and other information necessary to meet the requirements listed in DC Water Project Submission Checklist has been accepted for review by DC Water in support of a DCRA Building Permit for the project, without substantial revisions that result in the change in the peak water demand that changes the size or number of meter connections for the project;
 - (3) The DCRA Building Permit for the premise, building, or structure requiring water and sewer service is submitted to DCRA and accepted for review by DCRA within one calendar year after the effective date of these regulations; and
 - (4) DC Water issues the Certificate of Approval within one calendar year after the effective date of these regulations, unless DC Water's review is delayed due to a force majeure event that closes DC Water's offices for one or more days one week before June 1, 2019.
 - (q) For federal facilities, payment of the System Availability Fee shall be a condition of DC Water's issuance of the Certificate of Approval.

- (r) Before June 1, 2021, the property owner may request to pay the System Availability Fee in four equal installments, with the final payment due no later than one calendar year after the execution date of a Payment Plan Agreement. Execution of a Payment Plan Agreement and payment of the first installment payment, shall be a condition of DC Water's issuance of the Certificate of Approval. Any overdue payments under the Payment Plan Agreement shall be treated as an overdue bill for water and sewer service charges as set forth in D.C. Official Code § 34-2407.02.
- (s) In the case that the DCRA Construction Permit is not issued or is revoked or the project is not constructed, upon written request from the property owner, DC Water shall issue the property owner a refund of the System Availability Fee.

Section 199, DEFINITIONS, is amended by adding the following terms and definitions to read as follows:

Affordable Housing Unit – a housing unit that is offered for rent or for sale for residential occupancy and as a result of a federal or District subsidy, incentive or benefit, and is made available and affordable to households whose income limit requirements are established by a federal or District program or agency or the Council for the District of Columbia.

Force Majeure Event - an event arising from causes beyond the control of DC Water or the control of any entity controlled by DC Water, which results in the closure of DC Water facilities.

Comments on these proposed rules should be submitted in writing no later than thirty (30) days after the date of publication of this notice in the D.C. Register to Linda R. Manley, Secretary to the Board, District of Columbia Water and Sewer Authority, 5000 Overlook Ave., S.W., Washington, D.C. 20032, by email to Lmanley@dcwater.com, or by FAX at (202) 787-2795. Copies of these proposed rules may be obtained from the DC Water at the same address or by contacting Ms. Manley at (202) 787-2332.