

SUBSTITUTE ORDINANCE NO. BL2009-407

An ordinance amending sections 15.20.045(A), 15.20.050, 15.32.020, 15.32.190(B), 15.36.040(A), 15.36.070, 15.44.020, 15.64.010, 15.64.015, 15.64.020, 15.64.031, 15.64.032 and 15.64.033 of the Metropolitan Code of Laws.

WHEREAS, the Department of Water and Sewerage Services (“Department”) provides to customers, developers and others numerous services to enhance the quality of water, wastewater and storm water services available in its service area; and,

WHEREAS, the current charges made by the Department do not permit the full recovery of all costs incurred in the provision of such services or the establishment of a program of necessary improvements; and,

WHEREAS, the amendments to Title 15 of the Metropolitan Code set forth herein will permit the fair allocation of costs incurred by the Department in the provision of necessary services and therefore are in the best interests of the Metropolitan Government.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1: The water capacity charge enacted in BL2007-1457 shall be reduced from one thousand to two hundred fifty dollars per unit of flow by amending Section 15.20.045(A) of the Metropolitan Code of Laws to replace the words “one thousand dollars” with the words “two hundred fifty dollars” in the first sentence thereof.

Section 2: Section 15.20.050(A) of the Metropolitan Code of Laws is hereby amended by adding the following after the second sentence thereof:

Upon request, the director shall review the account of each eligible customer on or about the first anniversary of the establishment of the account to determine the customer’s actual capacity requirement. In the event that the actual capacity requirement differs by ten percent or more from the capacity estimate used at establishment of the account to determine the capacity charge created by this chapter, the director shall refund to or collect from the customer, as appropriate, the difference between the capacity charge previously paid by the customer and the capacity charge calculated on the customer’s actual capacity requirement. The director further shall amend the terms of any payment plan contemplated in this section as necessary to cause the total capacity charge paid by an eligible customer to be based on the customer’s actual capacity requirement. A copy of

this section of the Metropolitan Code shall be made available to any customer entering into a payment plan hereunder.

Section 3: The text of section 15.32.020 of the Metropolitan Code shall be replaced in its entirety with the following:

The rates set out in Table 15.32.020 are established for water service, said rates to be effective beginning May 1, 2009, as set forth in this chapter.

Table 15.32.020

WATER RATE SCHEDULE BY CUSTOMER CLASS

Monthly Rates for Water Sold by Meter Measurement

Minimum Charge Per Month (Based on Size of Meter)

RESIDENTIAL

Minimum Charges per Month in Dollars (Including 200 Cubic Feet Usage)

Meter Size	May 1, 2009	May 1, 2010	May 1, 2011
5/8"	2.84	2.98	3.13
3/4"	9.63	10.11	10.62
1"	11.58	12.16	12.77
1 1/2"	17.03	17.88	18.77
2"	22.94	24.09	25.29
3"	30.28	31.79	33.38
4"	49.35	51.82	54.41
6"	77.48	81.35	85.42
8"	121.17	127.23	133.59
10"	121.17	127.23	133.59
Usage Charges per 100 Cubic Feet			
	May 1, 2009	May 1, 2010	May 1, 2011
Usage over 200 cu. ft.	\$2.11	2.22	2.33

SMALL COMMERCIAL AND INDUSTRIAL

Minimum Charges per Month in Dollars (Including 200 Cubic Feet Usage)

Meter Size	May 1, 2009	May 1, 2010	May 1, 2011
5/8"	3.61	3.79	3.98
3/4"	10.27	10.78	11.32
1"	12.36	12.98	13.63
1 1/2"	18.17	19.07	20.03
2"	24.47	25.69	26.97
3"	32.30	33.91	35.61
4"	52.64	55.27	58.03
6"	82.65	86.78	91.12
8"	129.26	135.72	142.50
10"	129.26	135.72	142.50

Usage Charge Per 100 Cubic Feet

	May 1, 2009	May 1, 2010	May 1, 2011
Usage over 200 cu. ft.	\$2.25	2.36	2.48

INTERMEDIATE COMMERCIAL AND INDUSTRIAL

Minimum Charges per Month in Dollars (Including 200 Cubic Feet Usage)

Meter Size	May 1, 2009	May 1, 2010	May 1, 2011
5/8"	12.56	13.19	13.85
3/4"	17.82	18.71	19.64
1"	19.51	20.48	21.51
1 1/2"	24.22	25.43	26.71
2"	29.60	31.08	32.63
3"	37.04	38.90	40.84
4"	58.64	61.57	64.65
6"	90.53	95.06	99.81
8"	140.93	147.98	155.38
10"	140.93	147.98	155.38

Usage Charge Per 100 Cubic Feet

	May 1, 2009	May 1, 2010	May 1, 2011
Usage over 200 cu. ft.	1.94	2.04	2.14

LARGE COMMERCIAL AND INDUSTRIAL

Minimum Charges per Month in Dollars (Including 200 Cubic Feet Usage)

Meter Size	May 1, 2009	May 1, 2010	May 1, 2011
5/8"	541.71	568.79	597.23
3/4"	547.56	574.94	603.69
1"	549.48	576.95	605.80
1 1/2"	554.74	582.47	611.60
2"	560.74	588.78	618.22
3"	566.02	594.32	624.04
4"	590.16	619.67	650.65
6"	625.81	657.10	689.96
8"	685.18	719.44	755.41
10"	685.18	719.44	755.41

Usage Charges Per 100 Cubic Feet

	May 1, 2009	May 1, 2010	May 1, 2011
Usage over 200 cu. ft.	1.64	1.72	1.81

Section 4: Section 15.32.190 of the Metropolitan Code of Laws shall be amended as follows:

1. By deleting subsection B. in its entirety and substituting in lieu thereof the following:

“B. An additional amount equal to the greater of two dollars and fifty cents (\$2.50) or five percent of the total current net billing shall be added to the net billing, the total of which shall be the gross billing; provided, that the gross bill will be due if the net bill is not paid within twenty days of billing. The gross bill will be combined with any arrears to determine the total amount due.”

2. By adding the following new subsection D.:

D. Budget Billing. Within six months after the completion and installation of the department’s new customer information system, the department shall create and implement a budget payment plan (“budget billing”) for residential customers. Residential customers with at least twelve months of billing history will be eligible for budget billing. Budget billing amounts will be based on the prior twelve months history, with the average amount being due each month. At the end of twelve months, a true up will occur, and the amount due each month will be reassessed based on actual consumption.

Section 5: The sewer capacity charge enacted in BL2007-1457 shall be reduced from two thousand to seven hundred fifty dollars per unit of flow by replacing Section 15.36.040(A) of the Metropolitan Code of Laws in its entirety with the following:

Notwithstanding any other provision of the Metropolitan Code of Laws to the contrary, there is established a capacity charge of seven hundred fifty dollars per unit of flow on all new connections to the public sewer system. An increase in sewer use of ten percent or more through an existing connection, as compared to average flow during the previous three years, shall be considered a new connection for purposes of this section. This capacity charge shall be distinguished from and collected in addition to applicable tap fees.

Section 6: Section 15.36.070 of the Metropolitan Code of Laws is hereby amended by adding the following after the second sentence thereof:

Upon request, the director shall review the account of each eligible customer on or about the first anniversary of the establishment of the account to determine the customer’s actual capacity requirement. In the event that the actual capacity requirement differs by ten percent or more from the capacity estimate used at establishment of the account to determine the capacity charge created by this chapter, the director shall refund to or collect from the customer, as appropriate, the difference between the capacity charge previously paid by the customer and the capacity charge calculated on the customer’s actual capacity requirement. The director further shall amend the terms of any payment plan contemplated in this

section as necessary to cause the total capacity charge paid by an eligible customer to be based on the customer's actual capacity requirement. A copy of this section of the Metropolitan Code shall be made available to any customer entering into a payment plan hereunder.

Section 7: The text of section 15.44.020 and Table 15.44.020 of the Metropolitan Code shall be replaced in their entirety with the following:

- A. The rates set out in Table 15.44.020 are established for sewerage service, said rates to be effective beginning May 1, 2009, as set forth in this chapter.
- B. **Budget Billing.** Within six months after the completion and installation of the department's new customer information system, the department shall create and implement a budget payment plan ("budget billing") for residential customers. Residential customers with at least twelve months of billing history will be eligible for budget billing. Budget billing amounts will be based on the prior twelve months history, with the average amount being due each month. At the end of twelve months, a true up will occur, and the amount due each month will be reassessed based on actual consumption.

Table 15.44.020

SEWER RATE SCHEDULE BY CUSTOMER CLASS
Monthly Sewerage Service Rates Applied to Use of the Public Sanitary Sewerage System Measured by Water Consumption as Determined by Meter Measurement or Other Approved Acceptable Measurement
Minimum Charge per Month (Based on Size of Meter)

RESIDENTIAL

Minimum Charges per Month in Dollars (Including 200 Cubic Feet Usage)

Meter Size	May 1, 2009	May 1, 2010	May 1, 2011
5/8"	6.59	7.12	7.62
3/4"	18.72	20.21	21.63
1"	22.54	24.34	26.05
1 1/2"	33.14	35.79	38.29
2"	44.62	48.19	51.57
3"	58.88	63.59	68.04
4"	95.95	103.63	110.88
6"	150.67	162.72	174.12
8"	235.63	254.48	272.29
10"	235.63	254.48	272.29

Usage Charges Per 100 Cubic Feet

	May 1, 2009	May 1, 2010	May 1, 2011
Usage over 200 cu. ft.	\$4.10	\$4.43	\$4.74

SMALL COMMERCIAL AND INDUSTRIAL

Minimum Charges per Month in Dollars (Including 200 Cubic Feet Usage)

5/8"	7.37	7.96	8.51
3/4"	20.96	22.64	24.22
1"	25.24	27.26	29.17
1 1/2"	37.11	40.08	42.89
2"	49.98	53.97	57.75
3"	65.95	71.22	76.21
4"	107.46	116.06	124.18
6"	168.75	182.25	195.01
8"	263.90	285.01	304.96
10"	263.90	285.01	304.96

Usage Charges Per 100 Cubic Feet

	May 1, 2009	May 1, 2010	May 1, 2011
Usage over 200 cu. ft.	\$4.59	\$4.96	\$5.30

INTERMEDIATE COMMERCIAL AND INDUSTRIAL

Minimum Charges per Month in Dollars (Including 200 Cubic Feet Usage)

5/8"	24.13	26.06	27.89
3/4"	34.23	36.96	39.55
1"	37.50	40.50	43.33
1 1/2"	46.56	50.29	53.81
2"	56.88	61.43	65.73
3"	71.19	76.88	82.26
4"	112.68	121.70	130.22
6"	173.97	187.89	201.05
8"	270.82	292.49	312.96
10"	270.82	292.49	312.96

Usage Charges Per 100 Cubic Feet

	May 1, 2009	May 1, 2010	May 1, 2011
Usage over 200 cu. ft.	\$3.74	\$4.04	\$4.32

LARGE COMMERCIAL AND INDUSTRIAL

Minimum Charges per Month in Dollars (Including 200 Cubic Feet Usage)

Meter Size	May 1, 2009	May 1, 2010	May 1, 2011
5/8"	931.44	1005.95	1076.37
3/4"	941.51	1016.83	1088.01
1"	944.78	1020.36	1091.79
1 1/2"	953.84	1030.14	1102.25
2"	964.16	1041.29	1114.18
3"	973.22	1051.07	1124.65
4"	1014.76	1095.94	1172.65
6"	1076.05	1162.13	1243.48
8"	1178.12	1272.36	1361.43
10"	1178.12	1272.36	1361.43

Usage Charges Per 100 Cubic Feet

	May 1, 2009	May 1, 2010	May 1, 2011
Usage over 200 cu. ft.	\$2.82	\$3.05	\$3.26

Section 8: Section 15.64.032 of the Metropolitan Code of Laws shall be replaced in its entirety with the following:

A. Definitions. For purposes of this Section,

1. "Department" shall mean the Department of Water and Sewerage Services.
2. "Director" shall mean the Director of the Department of Water and Sewerage Services.
3. "Impervious Area" shall mean the portion of a parcel of property that is covered by any material, including without limitation roofs, streets, sidewalks and parking lots paved with asphalt, concrete, compacted sand, compacted gravel or clay, that substantially reduces or prevents the infiltration of storm water. Impervious Area shall not include natural undisturbed surface rock.
4. "Residential Property" shall mean any property whose primary use, as shown on the use and occupancy permit issued by the department of codes administration, is residential single-family or residential two-family.
5. "Non-Residential Property" shall mean a parcel of property that is not a Residential Property as defined in this section.

6. The "Public System" shall mean and include storm water and flood control devices, structures, conveyances, facilities or systems, including natural watercourses, streams, creeks and rivers used wholly or partly to convey or control storm water or flood water within the jurisdictional boundaries of the Metropolitan Government. The Public System shall include, without limitation, natural conveyances (a) for which the Metropolitan Government has assumed maintenance responsibility; (b) to which the Metropolitan Government has made improvements; (c) which have or may pose a threat to public property because of flooding; or (d) for which the Metropolitan Government is accountable under federal or state regulations governing protection of water quality.
7. "Qualified Control Structure" shall mean a device or structure meeting design standards and approved by the Department that substantially limits the discharge of storm water from a parcel of property into or through any Public System or that substantially improves the purity of storm water so discharged.
8. "User" shall mean the owner of record of a non-exempt Residential or Non-Residential Property or the person or entity in possession if other than the owner.

B. **Storm Water Utility and User Fee Established.** There is established a storm water utility and a system of storm water user fees for each parcel of property in Davidson County. The fees shall be used by the Metropolitan Government, acting through the Department, exclusively for operation and management of the storm water utility and such storm water and flood control purposes as authorized in Tenn. Code Ann. § 68-221-1101, et seq. The fees shall be owed jointly and severally by the property owner of record and the person or entity in possession of such property in the amounts shown in Table 15.64.032. For each property having multiple dwelling or commercial units and more than one water meter, the Director shall fairly allocate the storm water user fees owed among Users based on their actual or estimated proportionate contribution to the storm water discharged by that property.

C. **Exemptions.** The following properties shall be exempt from payment of the fees created by this section:

1. Residential Properties zoned AG and AR2a of which half or more is used annually for the raising for sale of livestock or crops.

2. Properties from which no storm water is discharged into or through the Public System.
3. Properties having no Impervious Area.
4. Properties wholly within the corporate boundaries of Belle Meade, Berry Hill, Forest Hills, Goodlettsville, Lakewood and Oak Hill. Provided, however, that each such city may, upon approval of its legislative body, enter into the contract attached as Exhibit A to this ordinance, such that all property within its boundaries will participate in the Metropolitan Government's storm water utility and system of storm water user fees in the same manner as the remainder of the area within the General Services District. Such contract between any of the above cities and the Metropolitan Government shall be filed with the Metropolitan Clerk upon being executed.

D. Adjustments.

1. Properties on which a properly functioning Qualified Control Structure has been installed shall be entitled to a downward adjustment in the fees established by this section in proportion to the improvement achieved by the Qualified Control Structure in the purity of storm water discharged to the Public System or the reduction achieved by the Qualified Control Structure in rate or quantity of storm water discharged to the Public System or both.
2. A downward adjustment of not more than fifty percent in the fees established by this section shall be available to any entity exempt from taxation under state or federal law that provides to its students or members a regular and continuing program of education approved by the Director and concentrating on stewardship of water resources and minimization of demand on the Public System.
3. The Director shall develop regulations governing the fair and reasonable application of adjustments for properties entitled to one or more adjustment under the terms of this subsection. Prior to the adoption of such regulations governing adjustments in the fees, the regulations shall be published in a newspaper of general circulation and public comment thereon received and considered. Further, such regulations shall be approved by the Stormwater Management Committee before becoming effective.

- E. **Application.** Adjustments created under this subsection shall be granted by the Director upon written application by the User of any qualifying property and submission of such supporting documentation as the Director may reasonably require. The Director may, upon not less than 30 written days' notice, revoke a previously granted adjustment or cease to recognize an exemption upon his determination that the affected parcel of property does not qualify for the adjustment or exemption.
- F. **Reports.** Not later than the 15th day of October each year, the Director shall deliver a report to the Finance Director and the Metropolitan Council providing the following information:
1. A list of properties that are exempt or have been granted adjustments under this section. The report shall identify each property by street address and owner name, and shall state the adjustment amount granted or the basis for considering the property exempt.
 2. A list of all storm water projects completed within the previous year for each Council district broken down by priority category (A, B & C).
- G. **Appeals.**
1. Appeals relating to exemptions shall be taken to the Stormwater Management Committee within 60 days after the Department issues a bill for storm water fees indicating that an applicable exemption has not been recognized.
 2. An appeal from any decision made by the Director under this section, including a decision relating to an adjustment or allocation among Users of a single property, shall be taken to the Stormwater Management Committee within 60 days after issuance of the decision.
 3. Users shall be entitled to appeal the Department's calculation regarding the amount of the User's Impervious Area to the Stormwater Management Committee. In the event the Stormwater Management Committee approves a reduction in the amount of billable Impervious Area, such User's storm water fee shall be adjusted accordingly on a prospective basis. Users shall not be entitled to a refund or credit of storm water fees paid prior to said appeal.
- H. **Collection.** The Director shall bill the fees established by this section to Users who are retail customers of the Department on their regular monthly water or sewer bills. The fees shall be shown as a separately identified line item. The Director shall directly and

at least semi-annually bill the fees created by this section to Users not receiving water or sewer service from the Department or shall contract for the inclusion of such fees on bills issued to the customers of other utilities operating in Davidson County, such contracts to be approved by resolution of the Metropolitan Council.

- I. **Remedies.** In addition to any other remedy available to the Metropolitan Government under law or contract, the Department shall discontinue water service to the property of any User who fails to pay the fees established by this section in accordance with the procedures regularly used by the Department when customers fail to pay bills for water or sewer service. Fees established under this section shall constitute a lien against the property served, which lien shall run with the land. The Metropolitan Government may enforce the lien as prescribed by law.
- J. **Regulations.** The Director shall promulgate regulations to facilitate administration of this section. Prior to adoption, such regulations shall be published in a newspaper of general circulation and public comment thereon received and considered. The regulations further shall be approved by the Stormwater Management Committee before becoming effective. Any material change in the regulations shall be made in accordance with the same process.
- K. **Review of impervious area.** The Department shall review all User properties at least every five years to ensure such Users are being billed for the correct amount of Impervious Area. Upon completion of the periodic review, if a User's amount of Impervious Area has changed, the Department shall adjust such User's storm water fee accordingly to reflect the updated amount of Impervious Area.

Section 9: The following new Table 15.64.032 shall be inserted after Section 15.64.032 of the Metropolitan Code of Laws:

Graduated Storm Water User Fee Schedule

Property Type; Impervious Area (Square Feet)	Monthly Fee
All; Less than 400	\$0.00
Residential; Between 400 and 2,000	\$1.50
Residential; Between 2,000 and 6,000	\$3.00

Residential; More than 6,000	\$4.50
Non-Residential; Between 400 and 6,000	\$10.00
Non-Residential; Between 6,000 and 12,800	\$20.00
Non-Residential; Between 12,800 and 51,200	\$40.00
Non-Residential; Between 51,200 and 300,000	\$100.00
Non-Residential; Between 300,000 and 1,000,000	\$200.00
Non-Residential; More than 1,000,000	\$400.00

Section 10: Section 15.64.010 of the Metropolitan Code of Laws is hereby amended by deleting the definitions therein provided for the terms “Major drainage system,” “Minor Drainage system,” “Storm Water facilities” and “Flood Control facilities.”

Section 11: Section 15.64.015 of the Metropolitan Code of Laws is hereby amended by deleting the second sentence of the second paragraph thereof.

Section 12: Section 15.64.020 of the Metropolitan Code of Laws is hereby amended by deleting subsections B thereof.

Section 13: Section 15.64.031 of the Metropolitan Code of Laws is hereby repealed in its entirety.

Section 14: Section 15.64.033 of the Metropolitan Code of Laws is hereby repealed in its entirety.

Section 15: The provisions of Section 1 through 7 of this Ordinance shall become effective upon enactment of this Ordinance. The provisions of Sections 8 through 14 of this Ordinance shall become effective on July 1, 2009.

Section 16: This Ordinance shall take effect from and after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:



Scott Potter, Director
Department of Water
and Sewerage Services

INTRODUCED BY:



Tina Forkum

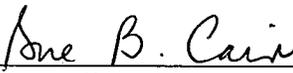

Parker Toler

APPROVED AS TO
AVAILABILITY OF FUNDS:



Richard Riebeling, Director
Finance Department

APPROVED AS TO FORM
AND LEGALITY:



Metropolitan Attorney

Members of Council

Exhibit A

AGREEMENT

**Between
The Metropolitan Government
of Nashville and Davidson County
and
The City of [Name of City]**

THIS AGREEMENT, entered into this ___ day of _____20__ by and between, THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, a public corporation organized and existing under the laws and Constitution of the State of Tennessee (hereinafter “Metropolitan Government”) and THE CITY OF [NAME OF CITY], a municipality organized and existing under the laws and Constitution of the State of Tennessee (hereinafter “[Name of City]”).

WITNESSETH:

WHEREAS, Metropolitan Government provides a storm water utility and a system of storm water fees for parcels of property within the area of the Metropolitan Government; and

WHEREAS, [Name of City] has chosen by action of its legislative body to bring the property located within the area of [Name of City] under the management of the Metropolitan Government’s storm water utility and the system of storm water user fees; and

WHEREAS, Section 18.15 of the Charter of the Metropolitan Government authorizes the Metropolitan Government and [Name of City] to contract for the administration and handling of the storm water utility and the system of storm water user fees; and

WHEREAS, the Metropolitan Government has authorized the inclusion of [Name of City] in its storm water utility and system of storm water user fees upon approval by [Name of City]'s legislative body and execution of the Agreement; and

WHEREAS, the parties recognize that it will benefit [Name of City] and the Metropolitan Government to enter this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the parties agree as follows:

1. The Metropolitan Government and [Name of City] hereby mutually agree that all property located within the area of [Name of City] be included as part of the Metropolitan Government's storm water utility and system of storm water user fees in the same manner as the remainder of the area within the General Services District of the Metropolitan Government.

2. This Agreement shall become effective upon adoption by the legislative body of [Name of City]. The original of the executed Agreement shall be filed with the Metropolitan Clerk and a copy shall be transmitted by [Name of City] to the Department of Water and Sewerage Services and to the Department of Law.

3. This Agreement may be terminated by mutual consent of the parties as evidenced by adoption of an ordinance by the Metropolitan Government and action by the legislative body of [Name of City].

4. This Agreement may not be assigned by either party without the prior approval of the other party as evidenced by resolution of each party's legislative body.

5. The validity, construction and effect of this Agreement shall be governed by the laws of the State of Tennessee.

6. It is the express intention of the parties to this Agreement that neither party shall bear liability for injury or loss caused by the other party.

IN WITNESS WHEREOF, the authorized representatives of the parties have
affixed their signature below with the intent to make this Agreement effective
as of the date first written above.

THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY:

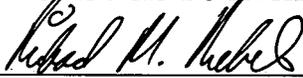
THE CITY OF {NAME OF CITY}:

By:

Karl F. Dean, Mayor

Title: _____

APPROVED AS TO AVAILABILITY OF FUNDS:



Richard Riebeling, Finance Director

APPROVED AS TO FORM AND
LEGALITY:

APPROVED AS TO FORM AND LEGALITY:

City Attorney

Metropolitan Attorney

ATTEST: _____
Metropolitan Clerk

DATE: _____