



# Metropolitan Nashville and Davidson County, TN

## Legislation Details (With Text)

**File #:** BL2023-1690

**Type:** Bill (Ordinance) **Status:** Passed

**File created:** 1/26/2023 **In control:** Metropolitan Council

**On agenda:** 3/7/2023 **Final action:** 3/7/2023

**Title:** An ordinance amending the Metropolitan Code of Laws to establish a stormwater capacity fee.

**Sponsors:** Jeff Syracuse, Kevin Rhoten, Russ Pulley

**Indexes:**

**Code sections:**

**Attachments:** 1. Amendment No. 1 to BL2023-1690, 2. Proposed Amendment - BL2023-1690 - Syracuse

Date	Ver.	Action By	Action	Result
3/10/2023	1	Mayor	approved	
3/7/2023	1	Metropolitan Council	passed on third reading as amended	
3/7/2023	1	Metropolitan Council	amended	
2/21/2023	1	Metropolitan Council	passed on second reading as amended	
2/21/2023	1	Metropolitan Council	amended	
2/21/2023	1	Transportation and Infrastructure Committee	approved	
2/21/2023	1	Budget and Finance Committee	approved	
2/7/2023	1	Metropolitan Council	passed on first reading	
1/31/2023	1	Metropolitan Council	filed	

An ordinance amending the Metropolitan Code of Laws to establish a stormwater capacity fee.

WHEREAS, the Department of Water and Sewerage Services ("MWS") provides to customers, developers, and others high-quality water, stormwater, and wastewater services throughout Davidson County; and,

WHEREAS, Metropolitan Code of Laws §§ 15.64.032 creates a stormwater utility to serve Nashville and Davidson County; and,

WHEREAS, Metropolitan Code of Laws §§ 15.20.045 and 15.36.040 establish water and sewer capacity fees for the purpose of funding improvements to the water and sewer systems made necessary by connections that use existing capacity within those systems; and,

WHEREAS, establishment of a capacity fee for discharges to the storm water system similarly would help fund improvements made necessary by discharges that use existing capacity in that system; and,

WHEREAS, the Downstream Development Criteria Policy shall be used as guidance for all stormwater systems serving Grading Permit sites so that engineers and developers across the Metropolitan Government of Nashville and Davidson County can adequately address downstream stormwater infrastructure; and,

WHEREAS, the amendments to Title 15 of the Metropolitan Code set forth herein are necessary for the efficient operation of the Metropolitan Government's stormwater utility and will permit the fair allocation of

costs incurred by the Department in providing stormwater services in Nashville and Davidson County.

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

SECTION 1. That the Metropolitan Code of Laws is hereby amended by adding a new section 15.64.035 and the following:

**15.64.035 Stormwater Capacity Fee**

**A. Definitions:**

For purposes of this Chapter:

“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.

“Impervious Surface” is a term applied to any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty, including but not limited to paved concrete or asphalt areas, graveled areas with limited infiltration, and roofs.

“Project Area” shall mean the surface area of a parcel or parcels, either whole or part, that is or will be part of a Project or a common plan of development.

“Project” shall mean a project for which a development permit is required by the Metropolitan Code of Laws.

“Post Development Impervious Surface Project Area” shall mean all impervious surface within the Project Area.

**B. Stormwater Capacity Fee**

Notwithstanding any other provision of the Metropolitan Code of Laws to the contrary, there is established a stormwater capacity fee for a Project resulting in Post Development Impervious Surface Project Area exceeding 800 square feet. The stormwater capacity fee shall be \$0.71 for each square foot of Post Development Impervious Surface Project Area, to be billed and collected in full prior to the issuance of any development permit for work on such parcel. This capacity fee shall be distinguished from and collected in addition to applicable Storm Water User fees established pursuant to 15.64.032. All revenues generated from this fee will be used to fund capital improvements in the separate stormwater collection system and stormwater-related capital improvements in the combined sewer system.

**C. Project Area**

No Project Area shall be charged more than one stormwater capacity fee for the same Impervious Area, even if the underlying parcel (or parcels) changes ownership, is combined with another parcel, or is redeveloped after payment of the initial fee.

**D. Maximum Fee**

The maximum capacity fee chargeable in the aggregate to any separate parcel shall be \$500,000.00 for 705,000 square feet of Impervious Area.

**E. Transferred Impervious Area Not Exempt**

Post Development Impervious Surface Project Area includes any impervious area that is or is intended to be transferred to the public for use as right-of-way.

#### F. Fee Nonrefundable

The stormwater capacity fee is nonrefundable, and is not transferable to other parcels and as such, remains with the parcel.

#### G. Applicability

The provisions of this section shall apply to properties located within Davidson County, excluding satellite cities.

SECTION 2. For projects in the combined sewer service area, funds generated pursuant to the stormwater capacity fee will be deposited into the extension and replacement fund. For the separated sewer service area, funds will be deposited into the Stormwater Capital Fund, which will receive an annual budgetary allocation.

SECTION 3. Amendments to this ordinance may be approved by resolution of the Metropolitan Council.

SECTION 4. This ordinance shall take effect on July 1, 2023, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

#### Analysis

This ordinance, as amended, establishes a stormwater capacity fee for Davidson County.

A stormwater capacity fee would be required for any project that requires a development permit and results in 800 square feet or more of impervious surface. The stormwater capacity fee would be \$0.71 per square foot of impervious surface within the project area. The maximum fee per project area would be \$500,000 for 705,000 square feet of post development impervious surface project area.

For projects in the combined sewer service area, funds generated pursuant to the stormwater capacity fee will be deposited into the extension and replacement fund. For the separated sewer service area, funds will be deposited into the Stormwater Capital Fund, which will receive an annual budgetary allocation.

Stormwater capacity fees will not apply to properties located in satellite cities.

Metropolitan Code of Laws Sections 15.20.045 and 15.36.040 establish water and sewer capacity fees, respectively.

The stormwater capacity fee will take effect on July 1, 2023.

An amendment added at the February 21, 2023 Council meeting added clarifying language.

*Fiscal Note: The proposed Stormwater Capacity Fee will be \$0.71 for each square foot of Post Development Impervious Surface Project Area exceeding 800 square feet. The maximum fee chargeable in the aggregate to any separate parcel will be \$500,000 for 705,000 square feet of Impervious Area.*