

DRAINAGE SERVICE CHARGES

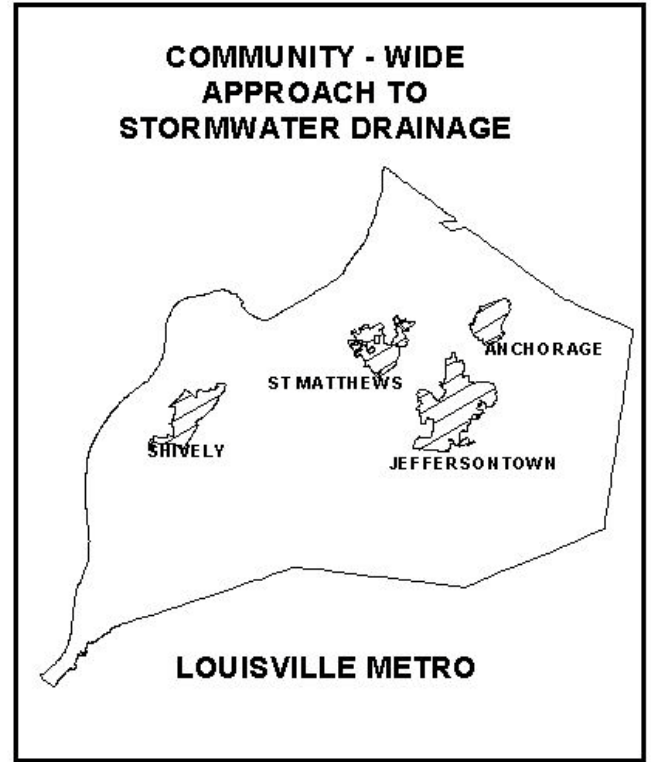
EFFECTIVE FOR ALL BILLS ISSUED ON AND AFTER AUGUST 1, 2013

A system and structure of drainage service charges to be applied to all developed parcels of land within the MSD drainage service area and other drainage service fees are hereby established in accordance with the following:

1. Definitions

For the purpose of this Amendment, the words or phrases below shall have the following meanings:

- a. **“MSD”** shall mean the Louisville and Jefferson County Metropolitan Sewer District.
- b. **“Developed”** shall mean that condition of real property altered from its natural state by the addition to or construction on such property of impervious ground cover or other man-made physical improvements such that the hydrology of the property or a portion thereof is affected.
- c. An **“Equivalent Service Unit”** (ESU) is the measure of impervious ground cover for a typical single-family residential property and is used by MSD in assessing the drainage service charges for each parcel of property.
- d. **“Impervious Surface”** shall mean those hard surface areas either which prevent or retard the entry of water into the soil in the manner that such water entered the soil under natural conditions pre-existent to development, or which cause water to run off the surface in greater quantities or at an increased rate of flow than that present under natural conditions pre-existent to development, including, without limitation, such surfaces as roof tops, crushed stone, gravel, asphalt or concrete paving, driveways and parking lots, walkways, patio areas, storage areas, or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development.
- e. **“Drainage Master Plan”** shall mean the plan for managing storm drainage and surface water runoff facilities and features within MSD’s drainage service area and the drainage basins therein.
- f. **“Drainage Service Charge”** means the fee levied by MSD upon all developed real property within the boundaries of MSD’s drainage service area as authorized by this amendment.
- g. The **“System”** shall mean the entire system of flood protection and stormwater drainage and surface water runoff facilities owned or leased by MSD or over which MSD has right of use for the movement and control of storm drainage and surface water runoff, including both naturally occurring and man-made facilities.
- h. **“Drainage Service Area”** shall mean the existing service area of MSD as defined by KRS 76.005(3), and any expansion thereof pursuant to KRS 76.175.
- i. **“Undeveloped”** shall mean that condition of real property unaltered by the construction or addition to such property by man of impervious ground cover or physical man-made improvements of any kind which change the hydrology of the property from its natural state.



- j. **“Residence”** shall mean a building or structure or portion thereof, designed for and used to provide a place of abode for human beings. The term residence includes the term “residential and “residential unit” as referring to the type of or intended use of a building or structure.
- k. **“Single-Family Residential Property or Parcel”** means any property or parcel which contains one structure with one or two residential dwelling units. Any such property or parcel containing more than one water meter, however, shall be deemed a Non-Single Family Residential Property or Parcel.
- l. **“Non-Single-Family Residential Property or Parcels”** shall mean properties or parcels which contain more than one residential structure or one residential structure with more than two residential dwelling units and institutional, commercial, or industrial properties. This definition shall include a residential property or parcel containing two or more water meters.
- m. **“Peak Flow Rate”** shall be based on the following storm events: 3 months 24 hour; 1 year 24 hour; 5 year 24 hour; 100 year 24 hour;
- n. **“Stormwater Retention or Detention Facilities”** shall mean stormwater drainage structures such as a basin, best management practice or facility that detains or retains (infiltrates) surface drainage/rainwater runoff;
- o. **“Total Runoff”** shall be based on the following storm events: 3 month 24 hour; 1 year 24 hour; 5 year 24 hour; 100 year 24 hour;
- p. **“Water Quality Benefits”** shall be based on the threshold rain event the BMPs are able to treat through infiltration and/or pollutant removal. The BMP, or series of BMPs, must at a minimum, treat the threshold/minimum water quality rain event, as defined in the MSD design manual, imposed upon new development (ex. 0.60-inch or 1.0-inch rain event capture). Alternatively, this may include a detailed analysis performed by the property owner identifying the resultant discharge volume reduction and priority pollutant removal efficiencies;
- q. **“Green Infrastructure Best Management Practices (BMPs)”** shall mean pervious pavement, rain gardens, green roofs, infiltration drains, wetlands, bioswales, increased green space, etc.
- r. **“Green Infrastructure Outreach/Education Programs”** shall mean active or passive programs that promote the value of the green infrastructure alternatives utilized at the site with the intent to encourage and promote similar improvements. Alternatively, access to the site may be granted for MSD to host outreach and education to the general public and/or specific audiences such as the development/construction industry. Education institutions may submit, for consideration, stormwater related environmental education curriculum supporting MSD’s mission and needs.

2. Service Charges

A drainage service charge is imposed on every parcel of land within the drainage service area except for the following exempted properties:

- a. City-owned property where that incorporated city has entered into an interlocal drainage service agreement with MSD providing for detention basin sites, easements, drainage rights-of-way or other assets of value comparable to applicable drainage service charges;
- b. Properties owned by the City of Louisville or by Jefferson County, or their budgeted agencies, who have offset their drainage service charges by the dedication of drainage facilities and future considerations through concomitant cooperative agreements;
- c. MSD-owned property;
- d. Public roads;
- e. All undeveloped parcels of land.

The following charges are hereby established and imposed for all parcels of real property within the drainage service area, excluding exempted properties.

Class A properties or Single-Family Residential

The single-family residential charge rate shall be **\$7.28** per month for each parcel having one or two residential dwelling unit(s). This flat rate fee is based on each single-family residential parcel being equal to one equivalent service unit (ESU). MSD shall determine the number of single-family residential parcels in the drainage service area and designate each as a single ESU irrespective of the size of parcel or the amount of impervious area on said parcel, until such time as the parcel is segregated or the use of the land is modified to other than single-family. Drainage Charges may be pro-rated based on the number of actual days in a billing cycle.

Class B or Other Parcels

The charge for all other parcels within the drainage service area shall be based upon the number of square feet of measured impervious surface, as determined by MSD through aerial photography and surface feature evaluation processes, expressed in whole ESUs by rounding to the next highest ESU (an ESU has been determined to be 2,500 square feet of impervious surface). The charge for Class B properties shall be computed by multiplying the number of ESUs for a given parcel by the unit rate established by MSD of **\$7.28** per month. Drainage Charges may be pro-rated based on the number of actual days in a billing cycle. Any owner of Class B property may request a drainage charge credit adjustment for approved on-site stormwater retention or detention facilities provided:

1. The property owner remains responsible for all costs of operation and maintenance of the facility;
2. The facility has been constructed in accordance with all approved plans;
3. The owner has obtained MSD required permits for the facility; and
4. MSD has access to the facility for purposes of inspecting for compliance with design, maintenance, and operating standards.

If MSD approves a drainage charge credit for on-site stormwater retention or detention facilities, the credit will be applied by reducing the number of billable ESUs by the percent of reduction in stormwater runoff due to such on-site facilities, as determined by MSD. The net billable ESUs after such credit is applied shall be expressed in whole ESUs by rounding to the next highest ESU. The adjusted drainage service charge shall not be less than 50% of the drainage service charge before the credit adjustment.

Applications for credits and stipends utilizing green infrastructure BMPs that exceed minimum requirements established by local ordinance and the MSD Design Manual will be reviewed to consider potential credit for peak flow rate reduction, total site runoff reduction, water quality benefit and green infrastructure outreach/education. The basis for the credit computation is as follows:

Credit Computation Basis

<u>Stormwater/ Green Infrastructure Element</u>	<u>Percent of Credit</u>
Peak Flow Rate	15%
Total Runoff	15%
Water Quality	15%
Green Infrastructure Education and Outreach	5%
Maximum 50% credit on Monthly Drainage Service Charge	
Maximum 25% credit if Capitol Recovery Stipend is granted	

Credit and stipend applications must include proposed operation, maintenance, and inspection plans. Applicants will be required to provide annual certifications documenting that required inspections and maintenance were performed to maintain the credit. In addition, access must be granted to MSD to perform inspections for the life of the credit. Applications for a credit or stipend must also include construction plans prepared in accordance with standards defined in the MSD Design Manual. This requirement includes preparation of plans by a qualified professional.

Monthly Stormwater Drainage Service Charge Credit Duration

New credits may be granted for a maximum of 10 years provided that all requirements are met and continue to be met for the life of the credit. Approved drainage service charge credits will remain in effect for up to 10 years from the original date of the

application approval. Agreements executed on or after April 1, 2006 may remain in effect until April 1, 2016. In addition, the following conditions apply to obtaining and maintaining the credit:

1. The existing facility must be maintained to acceptable conditions or repairs must be made within the time prescribed by MSD,
2. A new credit application must be received by MSD from the property owner at least one year in advance of the scheduled existing credit end date. A new application is required one year prior to the expiration to ensure no lapse in credit.
3. MSD must be given access to enter the properties to perform inspections.

Loss of credit approval shall be permanent and irreversible after 60 days of failure to comply with the program requirements. Subsequent applications will consider the most current credits program and shall be subject to all requirements and conditions applicable at the time the new application is made.

Capital Recovery Stipend

Capital Recovery Stipends are payments from MSD offered to defray the cost of implementing green infrastructure components that exceed minimum requirements established by local ordinance and the MSD Design Manual. A maximum of 75% of the BMPs value, as defined by MSD, is eligible for the Capital Recovery Stipend. Acceptance of the Capital Recovery Stipend will reduce the monthly stormwater drainage service charge credit for which the Applicant is eligible. If a Capital Recovery Stipend is accepted, the drainage service charge shall not be less than 75% (i.e. monthly drainage service charge credit shall be no more than 25%). MSD will not incur costs associated with an Applicant’s engineering, design, or analysis required for completion of the application.

The following establishes the proposed Capital Recovery Stipend Unit Values. These values include a safety factor to ensure that MSD and its rate payers receive an appropriate return on the investment over the life of the project. These values will be applied to green infrastructure BMPs applied in excess of those required for development and redevelopment. These values may also be prorated for water quality treatment and water quality control beyond the minimum required by local ordinances.

Capital Recovery Stipend Unit Values*

<u>Stormwater/ Green Infrastructure BMP</u>	Current Unit Value to MSD <u>(\$ per controlled sq.ft.)</u>	Maximum Eligible Unit Stipend (75% of Total Value) <u>(\$ per controlled sq.ft.)</u>
Rain Gardens & Bioswales	\$2.00	\$1.50**
Pervious Pavement	\$2.00	\$1.50**
Vegetated Roofs (Tray Systems)	\$3.00	\$2.25
Vegetated Roofs (Intensive Systems)	\$5.00	\$3.75
Infiltration Drains	\$2.00	\$1.50**
Rain Water Harvesting	\$2.00	\$1.50***

* Maximum Stipend amounts shall be prorated down to account for customers already receiving a drainage service charge credit in excess of 50%. For example, if a drainage service charge credit for 70% is in place, the affected property is eligible for up to a 30% unit value Stipend.

** Assumes that compensation is provided for controlled area up to 10 times the BMP area.

*** Assumes that analysis and/or flow monitoring is provided to demonstrate effectiveness.

Should a customer already enrolled in the program request to participate in the Capital Recovery Stipend program for either a new property or an improved property, the customer must enter into a new agreement for the new or improved property which sets forth the stipend amount that adheres to the current credit policy and must terminate any preexisting agreement pertaining to that specific property.

Capital Recovery Stipends are available on a priority basis and as MSD budgets allow. Priority will be given to potential projects based on: performance indicators, location in relation to priority sewersheds and watersheds, potential for sustainable partnerships, constructability, and public exposure potential.

Applications for Capital Recovery Stipend must be prepared by qualified professionals and must also include operation and maintenance plans, and designs prepared in accordance with standards defined in the MSD Design Manual. Annual certifications

must also be submitted by the property owner who will be required to document that inspections and maintenance needs have been performed.

Applications are required one year prior to the agreement expiration to ensure no lapse in credit. Applications will be reviewed to consider potential credit for peak flow rate reduction, total site runoff reduction, water quality benefit and green infrastructure outreach/education. The sites will be subject to access by MSD for inspection and maintenance certifications.

Capital Recovery Stipend agreements will reflect MSD's value recovery if green infrastructure BMPs are removed or altered beyond the original intent. Recovery will be required, if within 10 years of stipend agreement approval date a property owner chooses to remove the green infrastructure BMP, or make modifications that negate the intended purpose associated with a capital recovery stipend. In which case, the property owner shall be responsible for reimbursing MSD the greater of: 25% of the stipend amount; or, a straight line 10-year depreciation of the stipend amount.

As an alternative to the Capital Recovery Stipend, credit applications will be accepted to allow for reduction in impervious area by the amount controlled by green infrastructure BMPs. This credit, based on alternative impervious area calculation, will be available for a maximum of 10 years. The green infrastructure BMPs must control drainage to a level acceptable to MSD (i.e. capacity to manage the first 0.75-inches of precipitation of a storm event). These sites will also be subject to access by MSD for inspection and maintenance certifications.

Other Drainage Fees

The Board of MSD may establish fees for the review and approval of plans or designs of drainage facilities, and for the inspection of the construction of drainage facilities, all in accordance with KRS Section 76.085, and may establish policies for the sharing of the costs of developing regional drainage systems serving multiple developments/properties.

Billing and Collection

Drainage service charges shall be billed and made payable using the same frequencies and billing cycles used by the Louisville Water Company for its billing system. The amounts to be billed shall be included as additions to the billings of the Louisville Water Company for water and/or sewer service, or by separate billings and billing cycles for accounts not maintained by the Louisville Water Company.

The owner(s), tenant(s) or person(s) responsible for the payment of water service charges and/or sewer service charges shall also be responsible for the payment of drainage service charges for the same parcel(s) except for multiple occupancy such as shopping centers, apartments, condominiums, etc., in which cases MSD may either allocate the drainage service charges among the occupants of the parcel or may deem that a single billing to the parcel's owner(s), agent, or association is appropriate. In either case, the billed party shall be responsible for payment of drainage service charges. For properties not billed by the Louisville Water Company for water service charges and/or sewer service charges, the owner of such properties shall be billed drainage service charges and shall be responsible for payment of same. In all situations, the owners of properties subject to drainage service charges shall be fully responsible for payment of said charges regardless of any other parties hereinabove identified as also being responsible for payment of drainage service charges.

When any drainage service charges remain unpaid for a period of thirty (30) days after the amount becomes due and payable, the property, tenant and the owner thereof shall be deemed delinquent until such time as the charges are fully paid. MSD may terminate or cause to be terminated public sewer, water, and/or penalty shall be applied to delinquent drainage charges in the same manner that penalties are applied to delinquent sewer and water charges by the Louisville Water Company.

Drainage Revenues/Expenses

All monies collected through drainage service charges and drainage fees authorized herein shall be separately identified and accounted for in MSD's financial records, and all expenses related to stormwater drainage and flood control shall be separately identified and accounted for by MSD. The **DEBT SERVICE ADJUSTMENT** provision within MSD's existing schedule of rates, rentals and charges is hereby amended by adding "and drainage service charges" following the term "Wastewater Service Charges" wherever said term appears in said provision.

Adjustment of Charge, Appeals

Any owner who considers that drainage service charges applied to the owner's parcel are inaccurate or otherwise disagrees with the determination may apply to MSD's Financial Director for a rate review, stating in writing the grounds for the adjustment. The Financial Director will review the case and report findings to the Executive Director. The Executive Director shall consider

the complaint and staff recommendations and determine whether an adjustment is necessary to provide for reasonable and equitable application of the drainage service charge.

Appeals of decisions made by the Executive Director may be brought before the MSD Board in writing with notice and substance of the appeal sent to the Board's secretary within fifteen (15) days after the owner receives the Executive Director's decision. Upon reviewing the documentation, the Board shall render a final decision.

In the event of a billing error, MSD may back bill the customer for a period of two years from the date the error was discovered and MSD will grant refunds for overbillings for a period of two years from the date it was notified of the overbilling.

Severability

If any section, clause or provision of this amendment be declared by the courts to be invalid, the same shall not affect the validity of the amendment as a whole or any part thereof, other than the part so declared to be invalid.

FOR INFORMATION PLEASE CALL 587-0603.