

STORMWATER ORDINANCE NO. 14393

AN ORDINANCE, repealing and suspending Ordinance No. 13938, adopted August 5, 2014, and enacting a new ordinance in lieu thereof for purposes of providing funding for the stormwater system.

WHEREAS, The Metropolitan St. Louis Sewer District, a body corporate, Municipal Corporation and political subdivision of the State of Missouri (herein called the "District"), was established as a metropolitan sewer district under the provisions of Section 30 of Article VI of the Constitution of the State of Missouri, pursuant to a Plan adopted by the voters of St. Louis City and St. Louis County at a special election held on Tuesday, February 9, 1954 (the "Plan"); and

WHEREAS, the Plan established the District in the interest of the public health and for the purpose of providing adequate sewer and drainage facilities within the boundaries of the District; and

WHEREAS, the Plan empowers the District with jurisdiction, control, possession and supervision of sewer and drainage systems and facilities as may be placed under the District's jurisdiction in the manner provided in the Plan; to maintain, operate, reconstruct and improve the same as a comprehensive sewer and drainage system; to make additions, betterments and extensions thereto; to protect the public health and welfare by preventing or abating the pollution of water; and to have all the rights, privileges and jurisdiction necessary or proper for carrying such powers into execution; and

WHEREAS, the stormwater system within the District consists of man-made facilities and structures and natural water courses used for collecting and conducting stormwater

to, through and from drainage areas to the points of final outlet including, but not limited to, sewers, pipes, inlets, conduits and appurtenant features, canals, creeks, channels, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, retention or detention basins, dams, flood walls, levies, and pumping stations (the "Stormwater System"); and

WHEREAS, by Resolution No. 65 adopted by the Board of Trustees of the District on May 21, 1956, the District accepted the maintenance and operation of the portion of the Stormwater System theretofore operated and maintained by the municipalities, sewer districts and other public agencies within the boundaries of the District established under the original Plan (the "Original Area"); and

WHEREAS, a special election was held on May 10, 1977, pursuant to which additional areas were annexed to the District (the "Annexed Area"); and

WHEREAS, by Resolution No. 1494 adopted by the Board of Trustees of the District on April 27, 1977, the District established a policy regarding the Stormwater System in the Annexed Area which provided that the District would not assume immediate control of the Stormwater System in the Annexed Area, but would provide planning services and work with local municipal authorities and other organizations and groups to coordinate stormwater and drainage programs where such services were requested; and

WHEREAS, by Ordinance No. 7691 adopted by the Board of Trustees of the District on February 22, 1989, the District established a policy effective April 1, 1989, to regulate the construction, alteration and reconstruction of all stormwater and drainage facilities within the District and undertake the operation and maintenance of those portions of the Stormwater System accepted for dedication by the District within the boundaries of the entire District to the extent of available funds for such purposes; and

WHEREAS, the District's Plan authorizes the Board to establish by ordinance charges to be collected from all the real property served by the sewer facilities of the District, whether public or private, such charges to be based upon any classifications or sub-classifications which the Board may determine to be fair and reasonable, and to prescribe the manner in which and time at which such charges are to be paid; and

WHEREAS, the District is subject to the provisions of the federal Water Pollution Control Act, as amended (commonly referred to as the Federal Clean Water Act), 33 U.S.C. § 1251, et seq. (the "Federal Clean Water Act"), and the regulations promulgated there under; and

WHEREAS, there are continuing and growing threats to the public health, safety and welfare of the District and its residents created by stormwater, including flooding, erosion, water pollution, creation of pest breeding areas, traffic hazards caused by flooding, etc.; and

WHEREAS, the District currently levies and collects a stormwater operations and maintenance property tax of approximately Seven Cents (\$0.07) per One Hundred Dollars (\$100.00) assessed valuation on property within the Original Area and within the annexed areas described in MSD Ordinance No. 3753, as identified in the most recent tax Ordinance No. 14247 adopted September 29, 2015 (the "Existing Stormwater O&M Tax"); and

WHEREAS, the District currently levies and collects an administrative property tax used for stormwater regulatory purposes of approximately Two Cents (\$0.02) per One Hundred Dollars (\$100.00) assessed valuation on all property within the District, as identified in the most recent tax Ordinance No. 14247 adopted September 29, 2015 (the "Stormwater Regulatory Tax"); and

WHEREAS, the District currently imposes and collects a monthly 24-Cent or 18-Cent stormwater service charge on each MSD customer account, as identified in the most recent rate Ordinance No. 13938 adopted August 5, 2015 (the “Existing Stormwater Service Charge”); and

WHEREAS, the District currently levies and collects a property tax at rates between \$0.00 to \$0.10 per One Hundred Dollars (\$100.00) assessed valuation on property within each Operation, Maintenance, Construction and Improvement (“OMCI”) subdistrict, as identified in the most recent tax Ordinance No. 14247 adopted September 29, 2015 (the “OMCI Subdistrict Tax”); and

WHEREAS, the Rate Commission of The Metropolitan St. Louis Sewer District, being duly established by the Board of Trustees of the District pursuant to Section 7.040 of the Charter, issued its Rate Recommendation Report dated July 30, 2015 (the “Rate Commission Report”) recommending that the District submit for approval by the voters of the District a proposition authorizing a Stormwater Operations and Maintenance property tax upon all real and tangible personal property within the District at a rate of not more than Ten Cents (\$0.10) per One Hundred Dollars (\$100.00) assessed valuation; and

WHEREAS, the Board of Trustees of the District, after due deliberation and consideration of the Rate Commission Report, has determined that it is necessary and in the best interest of the District to impose a Stormwater Operations and Maintenance property tax upon all real and tangible personal property within the District at a rate of not more than Ten Cents (\$0.10) per One Hundred Dollars (\$100.00) assessed valuation for the purpose of providing revenue for the operations of the District’s stormwater utility, including stormwater system operation and maintenance, rehabilitation and limited construction of infrastructure and other

capital improvements, and an operating reserve (the “Stormwater Operations and Maintenance Property Tax”).

WHEREAS, on April 5, 2016, voters approved the Stormwater Operations & Maintenance Property Tax to be imposed upon all real and tangible personal property throughout the District at a rate of not more than Ten Cents (\$0.10) per One Hundred Dollars (\$100.00) assessed valuation; and

WHEREAS, based upon its deliberations and findings and the results of the election on April 5, 2016, in order to establish a uniform districtwide stormwater revenue system for operations, maintenance, and limited capital improvements, the Board of Trustees is (i) imposing the Stormwater Operations and Maintenance Property Tax and establishing the Districtwide Stormwater Fund (5120), (ii) repealing the Existing Stormwater O&M Tax and the Existing Stormwater Service Charge, and (iii) setting the OMCI Subdistrict Tax rates at \$0.00 for the tax year 2016; and

WHEREAS, the Board does hereby find and determine that the adoption of this Ordinance is in the public interest of the District and its residents, will further the public purposes of the District, and is desirable and necessary in furtherance of the public health, safety and welfare of the District and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE METROPOLITAN ST. LOUIS SEWER DISTRICT:

Section One. Definitions of Words and Terms. In addition to words and terms defined elsewhere in this Ordinance, the following words and terms as used in this Ordinance shall have the following meanings, unless some other meaning is plainly intended.

"Area" means the square footage measurement of Property.

"Board" means the Board of Trustees of the District.

"Dedicated Stormwater Facilities" means those portions of the Stormwater System which have been accepted for dedication by the District as provided in Section Three of this Ordinance.

"District" means The Metropolitan St. Louis Sewer District.

"Owner or Owners" means both the owner or owners of record of Property as set forth in the records of the office of the respective Recorders of Deeds for the City of St. Louis or for St. Louis County, Missouri.

"Person" means any individual, firm, proprietorship, partnership, company, municipality, state, federal or local governmental entity, association, society, corporation, group, or other entity.

"Property" means a lot or parcel of real estate, whether public or private, which is served by the Stormwater System.

"Stormwater" means any water or drainage resulting from precipitation which may or may not be mixed with an accumulation of dirt, soil, and other debris or substances collected from the surfaces on which such precipitation falls or flows.

"Stormwater Design Standards" means the most current published edition of "Rules and Regulations and Engineering Design Requirements for Sanitary Sewerage and Stormwater Drainage Facilities" and "Standard Construction Specifications for Sewers and Drainage Facilities" as ratified and approved from time to time by the Board.

"Stormwater Facility" or "Stormwater Facilities" means various drainage works that may include sewers, pipes, inlets, conduits, manholes, energy dissipation structures,

channels, outlets, retention/detention basins, and other structural components.

"Stormwater Service" means the planning and regulating of the Stormwater System and all activities described in Appendix I.

"Stormwater System" means all man-made facilities, structures, and natural Watercourses used for collecting and conducting Stormwater to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: sewers, pipes, inlets, conduits and appurtenant features, canals, creeks, channels, catch basins, ditches, streams, rivers, gulches, gullies, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, levees, and pumping stations.

"User" means the occupant or Owner of Property, or any Person served by the Stormwater System.

Section Two. Establishment of the Stormwater Operations and Maintenance Property Tax. The District hereby imposes a Stormwater Operations and Maintenance property tax upon all real and tangible personal property within the District at a rate of not more than Ten Cents (\$0.10) per One Hundred Dollars (\$100.00) assessed valuation for the purpose of providing revenue for the operations of the District's stormwater utility, including stormwater system operation and maintenance, rehabilitation and limited construction of infrastructure and other capital improvements, and an operating reserve. Furthermore, the District establishes the Districtwide Stormwater Fund (5120) for purposes of maintaining an accounting of these revenues and expenditures. The District repeals the Existing Stormwater O&M Tax and the Existing Stormwater Service Charge, and sets the OMCI Subdistrict Tax rates at \$0.00 for the tax year 2016.

Section Three. Dedication of Stormwater Facilities. The District will accept for dedication all existing or newly constructed Stormwater Facilities as provided by this Section. The Executive Director shall accept the dedication of an existing Stormwater Facility to the District's Stormwater System, provided that the District's final inspection report made prior to the acceptance of dedication confirms that such facility is located in public rights-of-way or easements granted to and accepted by the District and which is not encroached upon, is intended for public use, and meets the District's current policy on Stormwater maintenance as provided in Section Four of this Ordinance.

Upon completion of construction of new Stormwater Facilities for which plans are received, reviewed and approved by the District after April 1, 1989, the Stormwater Facilities shall be dedicated to the District and the Executive Director shall accept the dedication of such Stormwater Facilities to the District's Stormwater System, provided that the facilities have been constructed in accordance with the approved plans, the District's final inspection reports made prior to the acceptance of dedication confirm that the facilities meet the Stormwater Design Standards, and the facilities meet the District's current policy on Stormwater maintenance as provided in Section Four of this Ordinance.

Section Four. Maintenance of Dedicated Stormwater Facilities. The District shall maintain all Dedicated Stormwater Facilities pursuant to policies established from time to time by resolution of the Board to prioritize the use of monies from the Stormwater Fund and other available funds to meet the greatest needs in furtherance of the public health, safety and welfare and in compliance with the Federal Clean Water Act. To the extent of available funds the District shall establish a program of maintenance of Dedicated Stormwater Facilities in accordance with the District's then current Stormwater Maintenance Policy. The Board hereby adopts the

Stormwater Maintenance Policy attached hereto as Appendix I.

Section Five. Private Stormwater Facilities. The Owner shall be responsible for Stormwater Facilities located on private property where runoff will principally be collected within that property and for all other Stormwater Facilities not maintained by the District per Appendix I. The Owner shall clean and maintain the facility or channel as required to ensure proper operation as required by law or regulation. Where Dedicated Stormwater Facilities are in easements, the Owner of the Property is responsible for maintenance of such easements including lawn mowing, litter pick-up, pest control, removal of blockages and encroachments, etc. The Owner shall place no structures or plantings that interfere with the Stormwater Facility or its operation and maintenance.

Section Six. Rules and Regulations. In order to accomplish the purpose of this Ordinance to protect the Stormwater System within the District, to secure the best results from the construction, operation, and maintenance thereof, and to prevent damage and misuse of any of the Drainage Facilities, improvements, or properties within the District, the Executive Director may make and enforce rules and regulations that are necessary and reasonable:

- (A) To prescribe the manner in which storm sewers, ditches, channels, and other Stormwater Facilities are to be designed, installed, adjusted, used, altered, maintained, replaced, or otherwise changed.
- (B) To prescribe the manner in which Stormwater Facilities are operated.
- (C) To facilitate the enforcement of this Ordinance.
- (D) To protect the Stormwater System, and to prescribe the manner of its use by any public or private person, firm, or corporation.
- (E) To protect the public health, safety, and welfare.

Section Seven. Permits and Plan Review. All plans and designs for all Stormwater Facilities within the boundaries of the District shall be submitted for approval, revision or rejection by the District pursuant to the Plan, applicable Ordinances and the District Stormwater Design Standards. Except as preempted or otherwise delegated by EPA or MDNR, the District shall provide all stormwater plan and design review, permit control and construction inspection.

Section Eight. Severability. The Board hereby declares that if any section, part, sentence or clause of this Ordinance is held invalid, such invalidity shall not affect the remainder of this Ordinance, the Board hereby declaring that it would have enacted the remainder of this Ordinance without regard to that part hereof that may be held invalid.

Section Nine. Emergency Clause. The services as provided for herein are essential to the operation of the District, and enacted without delay, thus creating an emergency within the meaning of the Charter. Accordingly, this ordinance shall take effect immediately upon its enactment.

The foregoing ordinance was adopted on June 9, 2016

APPENDIX I

Metropolitan St. Louis Sewer District Statement of Policy for Maintenance of Stormwater Sewer Systems

1.0 Introduction

Adequate drainage in the Metropolitan St. Louis area is necessary to preserve and promote the general health, welfare and economic wellbeing of the region. Stormwater drainage is a regional feature that affects all governmental jurisdictions and all parcels of property. This characteristic of drainage makes it necessary to formulate a program that includes public and private involvement both from the master planning of new improvements and the costs associated with maintenance and replacement of existing improvements.

2.0 Definitions

Stormwater infrastructure consists of the following Systems:

Public Stormwater Systems – Stormwater infrastructure that is located in easements with rights to MSD. Stormwater infrastructure that has been formally dedicated to MSD for maintenance.

Private Stormwater Systems -- Stormwater infrastructure that is not located in easements with rights to MSD, and is typically designed to serve an individual property prior to connection to a public stormwater system. Stormwater Infrastructure not dedicated to MSD for maintenance.

Non-Dedicated Stormwater Systems – Stormwater infrastructure that provides a public service and serves more than one property. Typically systems not built per MSD standards, not in dedicated easements, and undedicated to the District. Examples may include a system built in a subdivision without permits or District approval, or as-built drawings were not received.

Stormwater infrastructure consists of the following Assets and features:

Inlets – A stormwater structure that has a curb inlet, area inlet, or road grate that allows stormwater runoff to enter the stormwater system. Inlets are interconnected to the stormwater system via storm sewer piping. Inlets typically need regular cleaning due to the accumulation of debris that is washed in off of streets.

Stormwater sewers – Enclosed and typically underground piping that transports stormwater runoff from properties and streets to streams.

Improved Channels – Improved stormwater channels are open trapezoidal or vertical walled channels designed to certain standards and typically constructed from man-made structural materials, such as poured concrete, concrete block, placed stone, or gabion baskets.

Unimproved Channels – Stormwater channels that have not been improved as described above, such as natural streams, stone revetments, and grade controls.

Sinkholes – Natural depressions or collapsed areas formed by dissolution of carbonate bedrock. Stormwater typically drains into the subsurface.

Improved Sinkholes – A sinkhole with an MSD approved drainage structure on top.

Driveway Culverts – Storm pipes incorporated into driveways to allow storm flows to travel through roadside ditches and gutters.

Road Culverts and Bridges – Engineered bridges and culverts designed to allow roads to span rivers, streams and stormwater channels.

Roadside ditches or Gutters – Earthen or paved stormwater channels alongside roads or curbed gutters alongside roads.

Swales – Shallow trough-like depressions designed to divert or channel stormwater flows. Examples include ditches and other grading to direct flow to specific areas, including MSD infrastructure.

Detention and Retention Basins – Stormwater basins often designed into neighborhoods to capture stormwater drainage from the neighborhood stormwater systems. They are designed to capture runoff for a limited period of time and discharge into a larger public stormwater system or stormwater channel.

Stormwater BMP (best management practice) – a constructed stormwater feature intended to reduce pollutants from stormwater discharges and improve surface water quality.

Municipal Separate Storm Sewer System (MS4) – As defined in 10 CSR 20-6.200: a MS4 is a conveyance or system of conveyances including roads and highways with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, paved or unpaved channels, or storm drains designated and utilized for routing of stormwater which, does not include any waters of the state; is contained within the municipal corporate limits or is owned and operated by the state, city, town, village, county, district, association, or other public body created by or pursuant to the laws of Missouri having jurisdiction over disposal of sewage, industrial waste, stormwater, or other liquid wastes; is not a part or portion of a combined sewer system; and is not a part of a publicly owned treatment works as defined in 40 CFR 122.2.

Rivers and Streams – Natural waterways that drain watersheds.

3.0 Services

The following provisions summarize the District’s current policies and service levels on Stormwater System Maintenance.:

3.1 Regulatory Authority and Oversight: Consists of work required to meet Federal, State and local stormwater regulations and includes the following:

3.1.a Engineering Services: MSD’s Engineering Department provides services to ensure the proper design, construction and functionality of existing and new stormwater systems. These services include:

- Plan review and permitting – All public or private sewerage and drainage works proposed to be constructed, altered or reconstructed by an person or corporation, public or private within the District Boundaries will require review and approval by the District. This includes any altering of storm drainage channel, site drainage or floodplain within the District;
- Ensuring that all new sewage and drainage facilities are designed in accordance with “Rules and Regulations and Engineering Design Requirements for Sanitary Sewage and Stormwater Drainage Facilities”; Ensuring that all new sewage and drainage facilities are constructed in accordance with “MSD Standard Construction Specification for Sewers and Drainage Facilities.”

3.1.b Environmental Services: MSD’s Engineering Department provides services to ensure compliance with federal and state stormwater regulations. These services include:

- Overall service area oversight and coordination with St. Louis County and municipalities within the District boundary, the Missouri Department of Natural Resources, and the U.S. Environmental Protection Agency;
- Activities required for compliance with the MS4 operating permit, including stormwater management plan (SWMP) development, implementation, and enforcement activities required for MSD to comply with the following minimum control measures:
 - Public Education and Outreach;
 - Public Involvement and Participation;
 - Illicit Discharge Detection & Elimination;
 - Construction Site Stormwater Runoff Control;
 - Post-construction Stormwater Management; and
 - Pollution Prevention/Good Housekeeping for Municipal Operations;
- Development, implementation and enforcement of plan(s) necessary to address the assumptions, requirements, waste load allocation, and load allocation of any applicable total maximum daily load (TMDL);
- All monitoring, recordkeeping, reporting, and applications necessary for compliance with a MS4 Operating Permit.

3.2 Preventative Stormwater Maintenance: Stormwater infrastructure needs periodic maintenance and inspection to assure it functions as intended and needed improvements are identified. The following are maintenance service goals of the District with respect to the Public Stormwater System:

- Clean combined sewer inlets in the City of St. Louis and near County on a two-year cycle;
- CCTV inspection of storm sewers on a 10-year cycle;
- Cleaning and repair of storm sewers as identified in inspections;
- Visual inspection and maintenance of improved sinkholes as needed;
- Visual inspection of storm inlets on a 10-year cycle;
- Cleaning and repair of storm inlets as identified in inspections;
- Inspection of improved channels and bridge culvert openings on a 2-year cycle;
- Cleaning of improved channels including bridge and culvert openings as identified in inspections. Areas under bridges and culverts are not MSD's responsibility;
- Maintenance of public stormwater BMP's constructed by MSD or dedicated to MSD for maintenance, including:
 - Green infrastructure and basins (mowing; plantings; trash);
 - Cleaning of hydro dynamic separators that were installed as part of public street improvements;
- Monthly inspection and maintenance of floodwall pump stations and gate structures.

3.3 Customer and Emergency Calls: The District maintains a 24/7 call center and responds to a number of stormwater problem calls. Response times range from four (4) hours for emergency calls, to up to 30 days for less critical investigations. MSD will respond to calls on both Public Stormwater Systems and Non-Dedicated Stormwater Systems. MSD will not typically respond to calls on Private Stormwater Systems. Response includes:

- Stormwater problem investigation (i.e. local ponding or flooding) – District engineers investigate localized or individual stormwater problems. Some water solutions may be offered by the District if it involves reasonable improvements to the Public Stormwater System. Some solutions may be the property owner's responsibility, such as grading or swales. In these cases the District will work to help identify the solution.
- Erosion Investigation – District engineers will investigate erosion issues. Erosion is a natural phenomenon, and due to funding constraints, MSD is usually unable to resolve these issues. If an MSD System is determined to be the cause of the issue, MSD will work to mitigate the problem. Engineers will give advice to the property owner.
- Cave-in (yard sinkhole) investigations – MSD personnel will investigate the cause of cave-ins. The hole is typically flooded with dye and the Public Stormwater System is checked to see if the dye is entering through a defect in the public infrastructure. If so, MSD will make necessary repairs.
- Street flooding - The District will respond and alleviate maintenance-related street flooding as soon as possible.

- Blocked inlets – The District will respond to blocked inlet calls and clean inlets as necessary.
- Broken or dislodged inlet tops - The District will typically respond within four hours of call.
- Blocked Creek Investigations - MSD will investigate blocked creek calls. MSD will contract to remove debris if it is deemed a flooding threat such as a fallen tree in public right of way. MSD will not be responsible to remove typical debris or branches that are not considered a flooding hazard.
- No Response Calls - MSD will not respond to some stormwater calls as they are not considered part of the Public Stormwater System, and therefore, MSD will not maintain these items. These include:
 - Detention and Retention Basins – these are considered private and their maintenance is the responsibility of the subdivision or neighborhood.
 - Maintenance and/or Cleaning of roadside ditches, bridges and roadway or driveway culverts - These structures are not MSD’s responsibility and typically fall to the municipality or private homeowner.
 - Sink Holes - MSD will not clean natural sinkholes, sinkholes improved with non-standard structures, or portions of improved sinkholes below the public structure.
 - Missouri State Highway Department - MSD will not maintain any storm sewers located on State right-of-way unless they are integral parts of the Public Stormwater System.
 - Swales- MSD will not maintain swales.
 - Trench Drains – MSD will not maintain trench drains.
 - Weeds – MSD only cuts weeds on property owned by MSD, and not on easements.

3.4 System Renewal and Repair: Continued system renewal and repair is an essential part of keeping the Public Stormwater System functioning properly. Many system improvements and repairs are identified as a result of MSD preventative inspection program as well as customer investigations. These may include pipe renewal, inlet repair or rehabilitation, small system additions as well as improved channel repairs. Some jobs may be performed internally with District Staff and others contracted through the MSD Engineering Department’s Infrastructure/Repair program. Engineering has a number of engineers and field crews that manage and inspect these repairs.

MSD will renew and repair Public Stormwater Systems. Private Stormwater Systems are the responsibility of the property owner. Non-dedicated Stormwater Systems may be eligible for improvement if the property owners are willing to give easements and dedicate the stormwater system to the District. Repair and Renewal monies are limited and repairs are performed on a priority basis, based on need, cost and public benefit.

3.5 Capital Improvement Projects: MSD does not collect a District-wide source of funding for stormwater capital improvement projects.

4.0 Disputes

In the event a dispute arises as to whether a particular stormwater sewer system, facility, structure, asset or feature or any part thereof should be maintained, repaired, or replaced by the District pursuant to this Policy, the decision of the District's Executive Director shall be final. Any person or persons jointly or severally aggrieved by such decision may appeal such decision in the manner provided for in Section 12.110 of the District's Plan.