

ORDINANCE NO. 15070

AN ORDINANCE, calling for an election to be held on April 2, 2019 in The Metropolitan St. Louis Sewer District on the proposition of whether to charge a Stormwater Capital Rate upon all customers, whether public or private, within the District based upon the amount of impervious area on each customer's real property for the purpose of providing revenue to fund capital improvements for flooding and erosion control.

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 and amended on Tuesday, November 7, 2000, and further amended on Tuesday, June 5, 2012 (the "Plan" or the "Charter"); 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 provides the District may "establish by ordinance a schedule or schedules of rates, rentals, and other charges, to be collected from all the real property served by the sewer facilities of the District, whether public or private"; and

WHEREAS, Article X, § 22(a) of the Missouri Constitution (the Hancock Amendment) prohibits a political subdivision of Missouri from "levying any [new] tax, license, or fees ...without the approval of the required majority of the qualified voters of that ... political subdivision voting thereon."

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, 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 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 available funds exist for such purposes; and

WHEREAS, the District currently levies and collects a stormwater operations and maintenance property tax of approximately Ten Cents (\$0.10) per One Hundred Dollars (\$100.00) assessed valuation on all property within the District as identified in the most recent tax Ordinance No. 15033 adopted September 27, 2018 (the "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. 15033 adopted September 27, 2018 (the "Stormwater Regulatory Tax"); and

WHEREAS, the tax rates within each Operation, Maintenance, Construction and Improvement (“OMCI”) subdistrict, as identified in the most recent tax Ordinance No. 15033 adopted September 27, 2018, have been set at zero (the “OMCI Subdistrict Tax”); and

WHEREAS, there are continuing and growing threats to the public health, safety and welfare of the District and its residents created by stormwater flooding and erosion; and

WHEREAS, because there currently is no dedicated funding source for the stormwater capital improvements needed within the District, the District proposed the addition of an impervious area-based stormwater capital rate to fund such capital improvements for flooding and erosion control; 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 August 9, 2018 (the “Rate Commission Report”) recommending that the District submit for approval by the voters of the District a proposition authorizing charging a Stormwater Capital Rate upon all customers, whether public or private, within the District based on the amount of impervious area on each customer’s real property for the purpose of providing revenue to fund capital improvements for flooding and erosion control; 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 that an election be held in the District on April 2, 2019 on the proposition set forth below; and

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

Section One. The Board of Trustees of the District finds it necessary and hereby declares its intent to charge a Stormwater Capital Rate upon all customers, whether public or private, within the District based on the amount of impervious area on each customer's real property for the purpose of providing revenue to fund capital improvements for flooding and erosion control, as set forth in Appendix I.

Section Two. An election is hereby ordered to be held in the District on Tuesday, April 2, 2019 for the purpose of submitting the following proposition to the qualified voters of the District:

PROPOSITION _____

Shall the Metropolitan St. Louis Sewer District (MSD) charge a Stormwater Capital Rate upon all customers, whether public or private, within the District based on the amount of impervious area (IA) on each customer's real property for the purpose of providing revenue to fund capital improvements for flooding and erosion control, as set forth in the following schedule:

Single-family Residential (per month)

	<u>IA (sq. ft.)</u>	<u>Charge</u>
Tier 1	200-2000	\$1.42
Tier 2	2001-3600	\$2.25
Tier 3	3601-6000	\$3.74
Tier 4	6001+	\$6.84

Commercial and Multi-family Residential (per month)

\$2.25 per 2600 sq. ft. IA

Section Three. The form of the Notice of Election for said election, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, is hereby approved.

Section Four. The Secretary-Treasurer of the District is hereby authorized and directed to notify the Board of Election Commissioners of the City of St. Louis, Missouri and the Board of Election Commissioners of St. Louis County, Missouri of the adoption of this Ordinance no later than 5:00 p.m. on January 22, 2019, and to include in said notification all of

the terms and provisions required by the Comprehensive Election Act, Chapter 115 of the Revised Statutes of Missouri, as amended, and by Section 10.010 of the Charter.

Section Five. This Ordinance shall be governed by and construed and enforced in accordance with the laws of the State of Missouri and the Charter.

The foregoing ordinance was adopted on December 13, 2018.

STORMWATER CAPITAL RATE

The Stormwater Capital Rate will be charged on all customers, whether public or private, within the District based on the amount of impervious area (IA) on each customer’s real property, as set forth in the following schedule:

Single-family Residential (per month)

	<u>IA (sq.ft.)</u>	<u>Charge</u>
Tier 1	200-2000	\$1.42
Tier 2	2001-3600	\$2.25
Tier 3	3601-6000	\$3.74
Tier 4	6001+	\$6.84

Commercial and Multi-family Residential (per month)

\$2.25 per 2600 sq. ft. IA (rounded to nearest 2600 sq. ft.)

Impervious surfaces such as roadways and sidewalks within public rights-of-way, railroad rights-of-way, and airport runways and taxiways are excluded.

An incentive and credit program will be available in substantially the following form:

Residential Incentive Program

The District will provide a one-time reimbursement to customers for Best Management Practices (BMPs) implemented such as rain gardens or cisterns. The runoff from a minimum of 500 square feet of impervious area would have to be captured by the BMP. The incentive will be based on 50% of the average residential bill over a 10-year time period. A condition of the incentive is that the facility not be a municipal separate storm sewer system (MS4) permit regulated requirement. Customers must be current on their MSD bill to receive the incentive.

The District will allow for the implementation of regional BMPs whereby incentives can be combined, or pooled, for residential properties within a drainage area of a regional BMP. The same conditions for a single residential incentive will apply. The runoff from a minimum of 500 square feet of impervious area per property in aggregate would have to be captured by the BMP. Drainage area size limitations may be required to maintain intended performance. As an alternative to a new facility, retrofitting existing stormwater detention basins could be made to provide equivalent BMP modifications to protect stream channels.

Commercial Incentive Program

A 50% credit for stormwater BMPs will be provided for impervious areas tributary to Volume

Reducing Green Infrastructure (designed to mimic runoff from green areas), and for detention basins meeting the current channel protection criteria (1-year design storm). Designs would have to meet current MSD design standards, and the 50% credit would be applied to the percentage of impervious area tributary to the facility. The credit will only be applied to the service area that was modified which resulted in the reduced stormwater run-off. The credit will be a renewable 5-year credit, subject to the customer re-applying for the credit. A condition of the credit is that the facility not be an MS4 permit regulated requirement.

Other Incentive Programs

A customer can also qualify for one of the following incentives or credits:

Best Management Practices Incentive Program

Constructed stormwater BMPs that are designed to be pervious will be 100% excluded from the billable area. Examples include green roofs and pervious pavement. If aerial photography identifies these areas as impervious, the customer will need to apply for this 100% billing adjustment. A minimum of 2600 square feet of impervious area must be removed.

Low Impact Development Credit Program

A 35% billing credit will be given to customers for whom the impervious surface area is less than 15% of the gross surface area for a parcel or contiguous parcels, equivalent to Environmentally Sensitive Development. Eligibility will be limited to customers with a lot size of 3 acres or more.

Direct Drainage Credit Program

A 70% billing credit will be available to those customers whose stormwater drains directly to a large river (Missouri, Mississippi, or Meramec) or other equivalent situations.

EXHIBIT A

NOTICE OF ELECTION

THE METROPOLITAN ST. LOUIS SEWER DISTRICT

Notice is hereby given to the qualified voters of The Metropolitan St. Louis Sewer District, that the Board of Trustees of the District has called an election to be held in the District on Tuesday, April 2, 2019, commencing at 6:00 a.m. and closing at 7:00 p.m., on the proposition contained in the following sample ballot:

**OFFICIAL BALLOT
ELECTION**

THE METROPOLITAN ST. LOUIS SEWER DISTRICT

APRIL 2, 2019

PROPOSITION _____

Shall the Metropolitan St. Louis Sewer District (MSD) charge a Stormwater Capital Rate upon all customers, whether public or private, within the District based on the amount of impervious area (IA) on each customer's real property for the purpose of providing revenue to fund capital improvements for flooding and erosion control, as set forth in the following schedule?

Single-family Residential (per month)

	<u>IA (sq. ft.)</u>	<u>Charge</u>
Tier 1	200-2000	\$1.42
Tier 2	2001-3600	\$2.25
Tier 3	3601-6000	\$3.74
Tier 4	6001+	\$6.84

Commercial and Multi-family Residential (per month)

\$2.25 per 2600 sq. ft. IA

YES
NO

INSTRUCTIONS TO VOTERS: If you are in favor of the proposition, place an X in the box opposite "YES." If you are opposed to the proposition, place an X in the box opposite "NO."

The election will be held at the following polling places in The Metropolitan St. Louis Sewer District:

PRECINCT

POLLING PLACE

DATED THIS _____ DAY OF _____, 201_.

**BOARD OF ELECTION COMMISSIONERS
OF THE CITY OF ST. LOUIS, MISSOURI**

By: _____

**BOARD OF ELECTION COMMISSIONERS
OF ST. LOUIS COUNTY, MISSOURI**

By: _____