

Nine Mile Creek Watershed District
Policies and Procedures for Public Access to Documents

Adopted as amended February 18, 2015

Public access to the data of public bodies is governed by the Data Practices Act (DPA), Minnesota Statutes, Chapter 13. The DPA states that data of public bodies are to be available to the public unless specifically protected by law where individual privacy would be violated or where other valid concerns outweigh the interest in public availability. The Nine Mile Creek Watershed District (District) recognizes the public interest in open access to its data as well as the public interest that requires that certain types of data not be publicly available. It is the intent of the District to comply fully with the DPA and, where the DPA allows for the exercise of judgment, to exercise that judgment consistent with the public interests underlying the law.

This policy is adopted pursuant to sections 13.025, subdivision 2, and 13.03, subdivision 2 of the DPA, which state that every public body shall establish procedures to implement the DPA. In addition, the District has adopted and maintains a Records Retention Schedule, which is an index of the records and data maintained by the District and describes private or confidential data on individuals collected by the District, in compliance with section 13.025, subdivision 1. This policy also is accompanied by a set of procedures to ensure that data on individuals are accurate and complete and to safeguard the data's security, consistent with section 13.05, subdivision 5, as well as an Inventory of Not-Public Data on Individuals to ensure that access to private and confidential data on individuals is limited to District personnel whose work or management assignments require access. The District also maintains a document setting forth the rights of data subjects under the DPA and procedures to guarantee the rights of data subjects in compliance with section 13.025, subdivision 3, and a document setting forth the rights of data subjects under the DPA.

Procedure for Review of District Documents

All requests to inspect or receive copies of District data, and all other inquiries regarding the DPA, must be in writing and delivered to the "Data Practices Compliance Official," at the following address:

Nine Mile Creek Watershed District
12800 Gerard Drive
Eden Prairie MN 55346

The District Administrator is designated as the Data Practices Compliance Official and Responsible Authority.

Requests to inspect or obtain copies of District data must be in writing to ensure that the District's response is timely and complete. The District is able to most efficiently and completely respond to requests that are specific and detailed. The Data Practices Compliance Official will help to ensure that documents of interest have been gathered, that documents not subject to inspection pursuant to the DPA have been segregated, and that assistance available to

assist the requesting party. The District will provide requested data for inspection at the District office, or other location to be specified by the Data Practices Compliance Official. District files may not be removed from the District office or location where data is provided for inspection.

The DPA requires that individuals be permitted to inspect or copy data within a reasonable time after a request. The District will attempt to respond to requests as quickly as possible. The response time will vary depending on the breadth of the request and the completeness and accuracy of the request.

If the District determines that certain data cannot be made available for inspection or copying, it will inform the individual of the classification of the data in question under the DPA and of the legal basis for denial of access.

The District may provide requested copies of data immediately or may advise that the copies will be provided as soon as reasonably possible thereafter. The ability to provide copies immediately depends on the number of copies requested, staff workload and the need to deliver the data elsewhere for copies to be made (e.g., oversize documents, tapes, electronic data).

Costs

There is no cost to inspect documents. If document copies are requested, the requesting individual will be charged 25 cents per page for up to 100 standard letter- or legal-sized black-and-white printed copies, except that there is no charge for delivery by email of less than 100 pages or the equivalent (as determined by the District) of data. Standard charges will apply for re-delivery of data in the event of failure of email delivery resulting from incapacity of the recipient's email system. Copies of documents will not be certified as true and correct copies unless certification is specifically requested. The fee for certification is \$1 per document.

With respect to oversize copies, tapes, electronic data, photographs, slides and other unusual formats, the requesting individual will be responsible for the actual cost incurred by the District to make the copy itself or to use a vendor, except that there is no charge for electronic delivery of less than 100 pages of data or the equivalent (as determined by the District).

An individual requesting copies or the electronic transmittal of more than 100 pages of data is responsible to pay the District the actual cost, including the cost of staff time, to search for and retrieve data and to make, certify, compile and transmit copies. Staff-time cost will be assessed based on established hourly rates. The District will not charge for staff time needed to separate public from not-public data.

If an individual so asks, before copies are made the District will advise of the approximate number of pages of documents responsive to a request or the likely cost of responding to a request. Payment may be made by check; cash will not be accepted. The District may require payment in advance.

When an individual asks for a copy of data that have commercial value and were developed with a significant expenditure of public funds by the District, the District may charge a reasonable fee that relates to the actual cost of developing the data. As a condition of making certain

commercially valuable data available, the District may require execution of a license agreement defining allowed use or further distribution.

Nine Mile Creek Watershed District Security and Protection of Not-Public Data on Individuals

The Nine Mile Creek Watershed District establishes the following protocols pursuant to and in satisfaction of the requirement in Minnesota Statutes section 13.05, subdivision 5, that the District establish procedures ensuring appropriate access to not-public data on individuals. By incorporating employee access to not-public data in the District's Inventory of Data on Individuals, in the individual employee's position description, or both, the District limits access to not-public data to employees whose work assignment reasonably requires access.

Implementing Procedures

Data inventory

Pursuant to Minnesota Statutes section 13.025, subdivision 1, the District has prepared a data inventory that identifies and describes all not-public data on individuals it maintains. To comply with the requirement in section 13.05, subdivision 5, the District has included indication of the managers and employees who have access to not-public data. (*See Appendix A: Inventory of Not-Public Data on Individuals.*)

In the event of a temporary duty as assigned by the administrator or a department director, an employee may access certain not-public data for as long as the work is assigned to the employee.

In addition to the employees listed in the data inventory, managers, the Responsible Authority/Data Practices Compliance Official and counsel may have access to *all* not-public data maintained by the District if necessary for specified duties. Any access to not-public data will be strictly limited to the data necessary to complete the work assignment.

Employee position descriptions

Position descriptions may contain provisions identifying any not-public data accessible to the employee when a work assignment reasonably requires access.

Data sharing with authorized entities or individuals

State or federal law may authorize the sharing of not-public data in specific circumstances. Not-public data may be shared with another entity if a federal or state law allows or mandates it. Individuals will have notice of any sharing in an applicable Tennessee warning or the District will obtain the individual's informed consent. Any sharing of not-public data will be strictly limited to the data necessary or required to comply with the applicable law.

To ensure appropriate access, the District will:

- Assign appropriate security roles, limit access to appropriate shared network drives and implement password protections for not-public electronic data;
- Password protect employee computers and lock computers before leaving workstations;
- Secure not-public data within locked work spaces and in locked file cabinets

- Shred not-public documents before disposing of them.

Penalties for unlawfully accessing not-public data

The District may utilize the penalties for unlawful access to not-public data as provided for in Minnesota Statutes, section 13.09. Possible penalties include suspension, dismissal or referring the matter to the appropriate prosecutorial authority who may pursue a criminal misdemeanor charge.

Protection of Private and Confidential Data on Individuals

Accuracy and Currency of Data

Employees of the District are requested, and given appropriate forms, to annually provide updated personal information for the District as necessary for District recordkeeping, tax, insurance, emergency notification and other personnel purposes. Other individuals who provide private or confidential information (e.g., managers) are also encouraged to provide updated information when appropriate.

Data Safeguards

Private and confidential information is stored in secure files and databases that are not accessible to individuals who do not have authorized access. Private and confidential data on individuals is accessed only by individuals who are both authorized and have a need to access such information for District purposes. (An individual who is the subject of data classified as private may access such data for any reason.)

The District administrator, as Responsible Authority, reviews forms used by the District to collect data on individuals and ensures that the District collects private or confidential data only as necessary for authorized District purposes.

Only managers and employees of the District whose work for the District requires that they have access to private or confidential data may access files and records containing such information. Employees' and managers' access is further governed by the following requirements:

- Private or confidential data may be released only to persons authorized by law to access such data;
- Private or confidential data must be secured at all times and not left in a location where they may be accessed by unauthorized persons;
- Private or confidential data must be shredded before it is disposed of.

When a contract with an outside entity requires access to private or confidential information retained by the District, the contracting entity is required by the terms of its agreement with the District to use and disseminate such information in a manner consistent with the DPA and the District's Policies and Procedures for Public Access to Documents.

Nine Mile Creek Watershed District
Private and Confidential Data – Rights of Data Subjects

In accordance with the Minnesota Data Practices Act, Minnesota Statutes chapter 13 (DPA), the following protocols and information are established by the Nine Mile Watershed District (District). This information is provided to you, as the subject of private or confidential data collected by the District to explain how (1) the District assures that all data on individuals collected by the District are accurate, complete and current for the purposes for which they were collected, and (2) to explain the security safeguards in place for District records containing data on individuals.

Rights to Access Government Data

Minnesota law gives you, as the subject of private or confidential data collected by the District, and all members of the public the right to see data collected and maintained by the District, unless state or federal law classifies the data as not public. In addition, the DPA gives you and all members of the public the right to have access to or, if you wish, to copy any public data for any reason, as long as the data are not classified as not-public or copyrighted.

You have the right to:

- be informed, upon request, as to whether you are a subject of District data and how that data is classified;
- know what the District's procedures are for requesting government data;
- inspect any public data that the District collects and maintains at no charge;
- see public data that the District collects and maintains without telling the District who you are or why you want the data;
- have public data that the District collects and maintains explained to you;
- obtain copies of any public District data at a reasonable cost to you;
- be informed by the District in writing as to why you cannot see or have copies of not-public District data, including reference to the specific law that makes the data not-public;
- receive a response from the District to a data request in a reasonable time.
- contest the accuracy and completeness of public or private data the District has on you and appeal a determination by the District as to whether the data are accurate and complete;
- to ask the District, if you are under 18 years old, to withhold information about you from your parents or guardian;
- consent or revoke consent to the release of information the District has on you;
- release all, part or none of the private data the District has on you.

Security of Private and Confidential Data

State law protects your privacy rights with regard to the information the District collects, uses and disseminates about you. The data the District collects about you may be classified as:

- Public – anyone can see the information;
- Private – only you and authorized District staff can see the information;
- Confidential – only authorized District staff can see the information.

When the District asks to you provide data about yourself that are private, the District will give you a notice called a Tennessee warning notice. This notice determines what the District can do with the data collected from you and the circumstances under which the District can release the data. The District will ask for your written permission before using private data about you in a way that is different from what is stated in the Tennessee notice you receive. The District also will ask for your written permission before releasing private data about you to someone other than those identified in the notice.

State law requires that the District protect private and confidential data about you. The District has established appropriate safeguards to ensure that your data are not inadvertently released or wrongfully accessed. The District disposes of private, confidential and other not-public data in accordance with its Records Retention Schedule, adopted November 21, 2012. Printed data are disposed of by shredding or other method sufficient to prevent the data from being ascertainable. Electronic data are destroyed or erased from media in a manner that prevents the data from accessed or read. Data-storage systems in District computers are erased in the process of recycling.

Nine Mile Creek Watershed District
Data Practices Advisory / Tennessean Warning

Some or all of the information you are being asked to provide on the attached form is classified by state law as either private or confidential data. Private data is information that generally cannot be given to the public, but can be given to the subject of the data. Confidential data is information that generally cannot be given to either the public or the subject of the data.

The Nine Mile Creek Watershed District's purpose and intended use of the information is:

You are / are not legally required to provide the information.

Your failure or refusal to supply the information will have the following consequences:

Other persons or entities who are authorized to receive the information include:

Nine Mile Creek Watershed District
Consent to Release – Request from an Individual

Explanation of Your Rights

If you have a question about anything on this form, or would like more explanation, please talk to the Nine Mile Creek Watershed District administrator before you sign it.

I, [*name of individual data subject*], give my permission for the Nine Mile Creek Watershed District to release data about me to [*name of other entity or person*] as described on this form.

1. The specific data I want the Nine Mile Creek Watershed District to release are [*explanation of data*].
2. I have asked Nine Mile Creek Watershed District to release the data.
3. I understand that although the data are classified as private while in the possession of the Nine Mile Creek Watershed District, the classification/treatment of the data at [*name of other entity or person*] depends on laws or policies that apply to [*name of other entity or person*].

This authorization to release expires [*date/time of expiration*].

Individual data subject's signature _____
Date _____

Parent/guardian's signature [*if needed*] _____
Date _____

Nine Mile Creek Watershed District
Consent to Release – Request from a Government Entity

Explanation of Your Rights

You have the right to choose what data we release. This means you can let us release all of the data, some of the data, or none of the data listed on this form. Before you give us permission to release the data, we encourage you to review the data listed and described here.

You have the right to let us release the data to all, some, or none of the persons or entities listed on this form. This means you can choose which entities or persons may receive the data and what data they may receive.

You have the right to ask us to explain the consequences for giving your permission to release the data.

You may withdraw your permission at any time. Withdrawing your permission will not affect the data that we have already released because we had your permission to release the data.

If you have a question about anything on this form, or would like more explanation, please talk to the District administrator before you sign it.

I, *[name of individual data subject]*, give my permission for the Nine Mile Creek Watershed District to release data about me to *[name of other entity or person]* as described on this form. I understand that my decision to allow release of the data to *[name of other entity or person]* is voluntary.

1. The specific data that the Nine Mile Creek Watershed District may release to *[name of other entity or person]* are: *[description, explanation of data]*.
2. I understand the Nine Mile Creek Watershed District would release the data *[explanation of reason for the release]*.
3. I understand that although the data are classified as private at the Nine Mile Creek Watershed District, the classification/treatment of the data at *[name of other entity or person]* depends on laws or policies that apply to *[name of other entity or person]*. *[Include other known consequences.]*

This authorization to release the data expires *[date/time of expiration]*.

Individual data subject's signature _____
Date _____

Parent/guardian's signature (*if data subject is a minor*) _____

Date _____