

Nine Mile Creek Watershed District

Water Management Plan – Amendment

***Prepared in accordance with the
Metropolitan Surface Water Management Act
and Watershed Law
Minnesota Statutes chapters 103B and 103D***

September 21, 2016

1.3 NMCWD Plan Organization and Summary

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Section 9.0 Implementation Components—The NMCWD is ultimately responsible for implementation of all aspects of this Plan.

Each municipality within the NMCWD, in its local comprehensive stormwater management plan, must provide for the adoption of necessary regulatory controls, stormwater design standards, education programs, data collection programs, and maintenance programs that are identified in this Plan within 2 years from the adoption of the last Watershed District/Water Management Organization Water Management Plan. The District will work with the municipalities in achieving a coordinated effort between the requirements of the NPDES Permit/MS4 requirements and the statutory requirements of the Metropolitan Surface Water Management Act. As part of that plan, each municipality must develop a qualifying local wetlands management plan and assess the adequacy of specified management programs. Municipalities and other State Agencies designated as Local Government Unit (LGU) pursuant to the Wetlands Conservation Act (WCA) must also enforce that Act. Hennepin County is responsible for groundwater planning in accord with the BWSR-approved plan.

Where WCA duties have been assumed by municipalities, the responsibilities of the District under WCA are limited to providing technical assistance as requested by LGUs. For those municipalities that have chosen not to assume WCA responsibilities, the District has assumed those duties.

~~LGUs must adopt regulatory controls that, at a minimum, incorporate runoff BMPs and best available technologies as promulgated by the MPCA.~~

~~LGUs must adopt regulatory controls that address erosion and sedimentation for projects not subject to grading and land alteration requirements of the District. This requirement includes an obligation to consider single family residential lot permitting.~~

~~LGUs will be responsible for enforcement of adopted floodplain and shoreland ordinances. The District will only undertake enforcement when the failure of the LGU to act leads to conditions that independently constitute a violation of the rules and regulations of the District or other governing law by which the District possesses a right of action.~~

The NMCWD has adopted a Capital Improvement Plan as part of their Water Management Plan (see Section 8.0)

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9.0 Implementation Components

9.1 ~~Regulatory Controls~~

~~Each municipality, in its local comprehensive stormwater management plan, must provide for the adoption of necessary regulatory controls, stormwater design standards, education programs, data collection programs, and maintenance programs that are identified in this plan within two years of the date of the adoption of this plan.~~

9.21 Responsibilities

The District is responsible for all aspects of implementation of this plan. Local units of government are only responsible for preparing a conforming local water management plan. As part of that plan each municipality must develop a qualifying comprehensive wetlands management plan and assess the adequacy of specified management programs. Municipalities designated as local units of government pursuant to the Wetlands Conservation Act (WCA) must also enforce that Act. Hennepin County is responsible for groundwater planning in accord with the Board of Water and Soil Resources (BWSR)-approved plan.

Where WCA duties have been assumed by municipalities, assistance and responsibilities of the District are limited to providing technical assistance as requested by LGUs. For those municipalities that have chosen not to assume WCA responsibilities, the District has assumed those duties.

After NMCWD reviews and approves a watershed city's local water management plan in accordance with Minnesota Statutes section 103B.235, the city must adopt and implement the plan within 120 days and determine whether to amend its official controls (ordinances) and policies to provide protection of water resources at least as effective as provided by the NMCWD rules or defer exercise of sole regulatory authority to NMCWD within 180 days.

Consistent with this regulatory framework (which is outlined in Minnesota Rules 8410.0160), NMCWD will require as a condition of approval that the local water management plan state that the city will update its ordinances to maintain conformity to the NMCWD rules or defer exercise of regulatory authority for the work covered by the revised rule within one year after NMCWD provides notice that it has significantly revised a rule. (The city's plan should allow 60 days for NMCWD review).

~~LGUs must adopt regulatory controls that, at a minimum, incorporate best management practices (BMPs) and best available technologies as promulgated by the Minnesota Pollution Control Agency (MPCA).~~

~~LGUs must adopt regulatory controls that address erosion and sedimentation for projects not subject to grading and land alteration requirements of the District. This requirement includes an obligation to consider single family residential lot permitting.~~

~~LGUs will be responsible for enforcement of adopted floodplain and shoreland ordinances. The District will only undertake enforcement when the failure of the LGU to act leads to conditions that independently constitute a violation of the rules and regulations of the District or other governing law by which the District possesses a right of action.~~

9.23 Capital Improvement Program

The Capital Improvement Program is set forth in Section 8.0 of this Plan.

9.34 Enforcement

In the event that the rules and regulations of the District are violated, the District will take the following steps:

1. The violator and the municipality in which the violation occurred will be notified of the violation in writing and requested to attend an inspection of the occurrence.
2. Upon inspection, the violator will be notified of the observations made during the inspection and informed of necessary remedial action and a reasonable date for completion of remedial action.
3. In the event that the violator does not undertake the necessary remedial action or fails to complete it, the District will commence immediate civil proceedings and seek an order to show cause why the violator should not be compelled to comply or why the District should not be permitted to take remedial action and seek damages against the violator. Prior to commencing action, the District will notify the municipality, should it desire to join in the action.
4. In the event that the violator fails to comply, the District will take remedial action and seek lawful compensation and damages.
5. In the event that the District observes any conduct or thing that may constitute criminal violation, the District will notify the municipality in which the observation occurred for criminal enforcement.
6. These procedures will be followed regardless of whether the violator is a public or private entity.

In the event that there are violations of ordinances or other regulatory controls of the local unit of government, the unit will be responsible for enforcement unless the violation also constitutes an independent violation of the rules and regulations of the District. If an independent violation exists, then the District will request the municipality to take action and, absent action, proceed to enforce the District obligation.

9.45 Administration Process

Amendments to local plans shall be submitted to the District for review and approval. Reviews may be conducted by the Technical and Citizen advisory committees and must be conducted by the Board of Managers. In the event that approval is not granted, then within the 3 months immediately succeeding disapproval, the local plan may be revised and resubmitted for reconsideration of approval.