

RESOLUTION NO. 18-13

**Nine Mile Creek Watershed District
Board of Managers**

**Adopting policy requiring creation of compensatory storage under Rule 2.0
Floodplain Management and Drainage Alterations only for flood storage**

Manager _____ offered the following resolution and moved its adoption, seconded by Manager _____.

WHEREAS the Nine Mile Creek Watershed District (NMCWD) has adopted and implements rules pursuant to Minnesota Statutes section 103D.341 through the Nine Mile Creek Watershed District Rules, adopted as amended April 10, 2018 (the Rules), and permitting program, as established pursuant to Minnesota Statutes section 103D.345;

WHEREAS the requirements of the NMCWD Floodplain Management and Drainage Alterations Rule apply to land-disturbing activities that alter or fill land below the 100-year flood elevation of any waterbody or constructed stormwater facility in the Nine Mile Creek watershed or work altering surface water flow of a waterbody;

WHEREAS “100-year flood elevation” is defined for purposes of the Rules as “[t]he surface elevation of a water body or constructed stormwater facility that has a 1 percent chance of being equaled or exceeded in any given year, as determined by the District for specific basins and watercourses and established in the District’s flood profile, where available, or as calculated using a model utilizing the most recent applicable precipitation frequency reference data (e.g., Atlas 14)”;

WHEREAS subsection 2.3.2 of the NMCWD floodplain rule requires that a permit applicant provide fully compensatory flood storage for any fill to be placed below the 100-year elevation of a waterbody or stormwater-management facility;

WHEREAS the NMCWD engineer has provided the NMCWD Board of Managers with analysis demonstrating that provision of compensatory storage is effective and necessary only for fill that displaces “live” storage – that is, a volume that is available to provide storage of flood waters, as opposed to “dead” storage, below the outlet elevation of a waterbody or stormwater-management facility that may not be available to store flood waters; and

WHEREAS NMCWD wishes in all circumstances to impose regulatory burdens only where they are reasonably certain to produce commensurate benefits in terms of flood-risk mitigation or water-resource protection, and the purpose and intent of subsection 2.3.2 of the Rules is to mitigate increased flood risk caused by filling in the floodplain, and filling that displaces dead storage volume does not reduce the available flood storage in the calculated floodplain..

NOW, THEREFORE, BE IT RESOLVED THAT the NMCWD Board of Managers adopts, effective immediately, a policy of applying the compensatory storage requirement in subsection 2.3.2 only to fill below the 100-year flood elevation and above the outlet elevation of a water basin or constructed stormwater facility, such that fill below the outlet elevation need not be compensated for;

BE IT FURTHER RESOLVED that the administrator is directed to include a summary description of this policy on the NMCWD web site; and

BE IT FINALLY RESOLVED that the NMCWD Board of Managers directs the administrator to maintain a log of permitting decisions made by NMCWD that implicate this policy pursuant to this resolution.

The question was on the adoption of the resolution and there were ____ yeas and ____ nays as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
CUTSHALL				
HUNKER				
KLOIBER				
PETERSON				
SHEELY				

Upon vote, the chair declared the resolution _____.

* * * * *

I, Grace Sheely, secretary of the Nine Mile Creek Watershed District, do hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with NMCWD and find the same to be a true and correct transcription thereof.

IN TESTIMONY WHEREOF, I set my hand this ____ day of _____, 2018.

Grace Sheely, Secretary