

RESOLUTION NO. 21-01

**NINE MILE CREEK WATERSHED DISTRICT
BOARD OF MANAGERS**

**Adopting amendments to the Nine Mile Creek Watershed District rules and
appending the amended rules to the Water Management Plan**

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

WHEREAS Nine Mile Creek Watershed District, a governmental subdivision with powers set forth in Minnesota Statutes chapters 103B and 103D, is authorized to act to achieve the purposes set forth in those chapters for the protection, conservation and beneficial use of the water resources of the Nine Mile Creek watershed;

WHEREAS Minnesota Statutes section 103D.341 states that a watershed district board of managers must adopt rules to accomplish the purposes of chapter 103D and implement the powers of the managers as specified by Minnesota Statutes section 103D.335, and NMCWD first adopted rules in accordance with this requirement in 1973 and has had rules in effect since;

WHEREAS NMCWD adopted updated rules on April 10, 2018, designed to implement water-resource protection and flood-risk mitigations goals and strategies articulated in NMCWD's fifth-generation watershed management plan, and in the intervening years NMCWD staff have developed refinements and improvements to the operation of and requirements in the rules, based on experience implementing the 2018 rules;

WHEREAS NMCWD staff drafted a preliminary set of proposed revisions, most of which were mechanical, "housekeeping" changes that improved operation and clarity of the rules, while others implemented regulatory-policy decisions endorsed by the NMCWD Board of Managers, and staff developed a matrix of the changes and explanations to support the proposed revisions, which submitted to the NMCWD's Technical Advisory Committee for initial review, leading to only a couple of minor adjustments to the rule revisions;

WHEREAS on May 24, 2021, NMCWD posted to its website and issued proposed the amendments to the rules for review and comment in accordance with Minnesota Statutes section 103D.341, along with the supporting matrix, and sent a copy of the materials to state review agencies, public transportation authorities that have jurisdiction within the Nine Mile Creek watershed, and all six cities within the watershed, as well as developers and builders who have frequently sought permits from NMCWD in recent years;

WHEREAS the NMCWD Board of Managers issued notice of and held a public hearing on the proposed amendments in accordance with section 103D.341 on June 16,

2021, and no comments were offered, but several written comments were submitted before the comment period closed July 7, 2021;

WHEREAS the board has reviewed and given due consideration to the comments received and changes to the rules and supporting matrix in response to comments, as well draft responses to the comments; and

WHEREAS the NMCWD Board of Managers finds that the rules as amended to be sound, reasonable and fair and to protect, conserve and manage the beneficial use of the water resources in the Nine Mile Creek watershed, and generally to promote the public welfare.

THEREFORE, BE IT RESOLVED that the NMCWD Board of Managers approves the final explanatory matrix and responses to comments, and adopts the attached amended rules of the Nine Mile Creek Watershed District, with such nonsubstantive revisions as the administrator, on advice of counsel, deems necessary to finalize the revised rules;

BE IT FURTHER RESOLVED that that any and all permit applications completed on or after July 22, 2021, will be subject to the rules as amended, and an applicant who has filed an application prior to July 22 may affirmatively elect, in writing, to have an application analyzed and permit decision rendered under the rules as amended hereby, so long as NMCWD has not already rendered a decision on the application;

BE IT FURTHER RESOLVED that the NMCWD Board of Managers directs that the amended rules be administratively appended to the 2017 NMCWD Water Management Plan as Appendix E, amending and superseding the current Appendix E;

BE IT FURTHER RESOLVED that the NMCWD Board of Managers directs the administrator to post the amended rules, the final explanatory matrix and responses to the comments received and the amended plan on the NMCWD website, and provide the responses to commenters;

BE IT FINALLY RESOLVED, that NMCWD administrator is directed to publish notice of the adoption of the amended rules, mail a copy of the amended rules to the governing body of each city affected by the amended rules and public transportation authorities with jurisdiction in the watershed, and file a copy of the amended rules in the Office of the Hennepin County Recorder.

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>
BUTLER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CUTSHALL	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HUNKER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
KVAM	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OLSON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the chair declared the resolution adopted.

* * * * *

I, Erin Hunker, 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 and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand this ____ day of _____ 2021.

Erin Hunker, Secretary