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# MEMO

**TO:** Nine Mile Creek Watershed District Board of Managers  
**FROM:** Randy Anhorn  
**DATE:** January 28, 2021  
**RE:** Governance Manual

## **Background**

During this agenda item, staff will go through the proposed Governance Manual revisions (attached), take questions and answers questions, and will then incorporate any resulting changes to bring back to a latter meeting.

## **Request**

No action required. The presented is for informational purposes to promote discussion and will be brought back for action at a latter Board meeting.

NINE MILE CREEK WATERSHED DISTRICT

GOVERNANCE MANUAL

~~November 21, 2012~~ Approved as amended [DATE]-2016 2021

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**Commented [A1]:** Will be moved to the top of manual later to minimize confusing redlines.

**Commented [A2]:** This is program policy, as opposed to governance policy, and could be removed.

**Commented [A3]:** Dan Cavanaugh is reviewing draft changes.

## Nine Mile Creek Watershed District Governance Manual – Introduction

Nine Mile Creek Watershed District is a special purposes unit of government established under Minnesota Statutes chapters 103B and 103D. Nine Mile Creek Watershed District is governed by a five-member Board of Managers appointed to staggered terms by the Hennepin County Board of Commissioners. ~~In 2005, Day-to-day operations implementing NMCWD's watershed management plan are overseen by the~~ Nine Mile Creek Watershed District ~~hired an administrator, who directs a small staff of resource and program experts, as well as the work of the NMCWD engineer to oversee and direct day-to-day activities and to carry out the Water Management Plan.~~

Existing policies were updated and are incorporated herein, along with newly drafted policies, to create the **Nine Mile Creek Watershed District Governance Manual**, ~~collecting the District's adopted governance policies, which was all of which were adopted by the Board on November 21, 2012. The managers regularly review the policies and manual, and adopt additions and updates as needed to ensure the manual remains complete and up to date made certain necessary and prudential updates to several policies in 2015, and approved this updated Governance Manual in January 2016.~~ The manual includes this overview and the general administrative policies below, along with the specific policy and protocol documents that were ~~revised or drafted adopted and have been amended as necessary~~ to fulfill specific statutory or internal management purposes.

The manual ~~establishes collects clear written~~ policies, procedures and instructions for the management of District activities and accounts, complete recordkeeping and records management, and separation of duties among District staff and contractors. The manual also ~~should helps~~ to ensure that similar transactions are treated consistently, that accounting principles used are appropriate and proper, and that records and reports are produced in forms desired by the managers and state review entities, including the Legislature, the Office of the State Auditor and the Board of Water and Soil Resources.

The manual consists of this document, along with the following policies and protocols adopted by the District:

- **Bylaws** – ~~(adopted August 1960; amendments adopted most recently in February 2015, November 21, 2012),~~ including the District Conflict of Interest Policy and fulfilling the requirement of Minnesota Statutes section 103D.315, subdivision 11.
- **Policies and Procedures for Public Access to Documents** ~~(adopted October 2007, amendments adopted November 21, February 18, 2015)~~ fulfills requirements of the state Data Practices Act applicable to the District. The following auxiliary documents fulfill specific requirements of the Data Practices Act, as noted:

- [Security of Not-Public Data and procedures to ensure accuracy and security of data on individuals and to notify data subjects of their rights under the DPA, along with the accompanying Inventory of Not-Public Data on Individuals \(included in the manual as Appendix A\) Index of private and confidential data and records, presently incorporated into the District's Records Retention Schedule \(Minn. Stat. § 13.025, subd. 1\), facilitates the District's efforts to ensure that access to private and confidential data on individuals is limited to personnel and managers whose work or management assignments require such access, as required by Minnesota Statutes section 13.025, subdivision 1.](#)
- Procedures to ensure accuracy and security of data on individuals (Minn. Stat. § 13.05, subd. 5) and to notify data subjects of their rights under the DPA (Minn. Stat. § 13.025, subd. 3).
- Tennesen notices and consent forms, created when needed and tailored for specific circumstances where private or confidential data is collected from individuals, such as new employees, or distributed (Minn. Stat. § 13.04, subd. 2). (The manual includes the District's basic template.)
- **Records Retention Schedule and Electronic Records Policy** allows the District to efficiently manage and, when appropriate, archive its files, and fulfills the requirement of section 138.17, subdivision 7, ~~as well and the Data Practices Act requirement that the District maintain a list of private and confidential data on individuals maintained by the District (section 13.05, subdivision 1).~~ The schedule also includes indication of whether the District stores information electronically or in hard copy form, in compliance with the Uniform Electronic Transactions Act, Minnesota Statutes section 325L.17.
- **Policy for Management of Permit Fees, Financial Assurances and Abandoned Property** provides protocols to manage assurances collected by the District from permittees and ensures that funds submitted are managed in accordance with the state unclaimed property law (chapter 345 generally and section 345.38 specifically), ~~accompanied by an:~~
- ~~Escrow agreement template, for escrow of funds submitted by permittees in fulfillment of the financial performance assurance requirements in the District rules.~~
- **Public Purposes Expenditures Policy** includes protocols and requirements to ensure that the District complies with the requirement in the state constitution (Article X, section 1) that expenditures by government bodies must serve a public purpose;
- **Fund Balance Policy** adopted to bring District fund-classification and -naming practices into compliance with general accounting standards.
- **Internal Controls and Procedures for Financial Management** provides terms for the management and administration of District finances.
- **Technology-Use Policy** adopted to guide managers' use of NMCWD-provided [technology and access to NMCWD data through personal devices.](#)

The manual will be annually reviewed and updated as necessary. Within 60 days of adoption of any substantive update, the manual will be submitted within 60 days of adoption to the Office of the State Auditor in compliance with Minnesota Statutes section 6.756, ~~as will any revisions and additional policies when adopted.~~

District staff and contractors are expected to conduct District business in accordance with the manual and to alert the Board of Managers to improvements and additions needed.

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## Nine Mile Creek Watershed District General Governance Policies

Adopted ~~June 22, 2011~~; adopted as amended ~~November 21, 2012~~ [DATE], 2021

The following general governance policies help ensure sound administration of District business and continued focus of District resources on protection and improvement of the water resources in the Nine Mile Creek watershed.

### I. Contracting

~~a.~~ The Board of Managers ~~may delegates~~ to the administrator the authority to approve work-change directives and change orders ~~for District projects that will result in a change in the cost of a project of \$10,000 or less.~~

~~b.a.~~ The administrator may require a District contractor to secure additional or replacement payment and/or performance bonds to cover any increased price of a District project resulting from a change order approved by the administrator.

~~e.b.~~ A change order approved by the administrator under delegated authority will be presented to the Board of Managers at its next meeting.

**Commented [A4]:** Better to include specifics of such authority in authorizing act (resolution authorizing president or administrator to enter contract).

### II. Per diems

a. Managers may receive a per diem for participation in a meeting of the Board of Managers and for other necessary duties. An activity must be authorized or requested by the Board of Managers or requested by the administrator to be considered a necessary duty for purposes of this policy.

b. Managers will prepare claim forms for per diem and expenses in duplicate. The original will be submitted to the treasurer to be processed and approved in the same manner as other claims against the District. Claims A claim for an expense must be submitted within 60 days of the date the expense was incurred, and all claims for expenses in any given year must be submitted prior to January 15 of the subsequent year. The manager will retain a copy for his or her personal records.

**Commented [A5]:** Could add a provision to provide (lesser) per diems for short engagements (e.g., treasurer meeting with accountant).

c. A manager may receive only one per diem per day of service to the District.

d. The District will establish the per diem rate by resolution. In the absence of such action by the Board, the per diem rate will be as specified in Minnesota Statutes section 103D.315, subdivision 8.

### III. Records management and retention

a. The District will make and preserve all records necessary to ensure the availability of a full and accurate accounting of the District's official activities, in fulfillment of Minnesota Statutes sections 15.17, subdivision 1, and 138.17.

b. The District will adopt and maintain a records retention schedule, to be approved by the State Archives Office, governing the retention and/or disposal of records created by the District.

- c. In keeping with the direction of the Uniform Electronic Transactions Act, the District has determined that it will create and retain its records in electronic form to the greatest extent possible. The District's records retention schedule includes indication of records that may be retained in hard copy form, but District policy is to retain all records in electronic form. This policy is prospective as of November 2012, and the District does not intend to convert historic records from hard copy to electronic form.
- d. The administrator is the responsible authority for purposes of District compliance with the Data Practices Act, Minnesota Statutes chapter 13.
- e. The administrator is the data practices compliance official for purposes of District compliance with the Data Practices Act.

**IV. Delegated authority**

- a. No employee of the District may exercise authority beyond that which is allocated to the administrator by the District bylaws and policies that constitute the Governance Manual.
- b. Authority delegated to the administrator may not be delegated to other employees or contractors of the District.
- c. Duties assigned to the administrator may be delegated to other employees or contractors by the administrator, however the administrator will remain responsible to the Board of Managers for the proper execution of all delegated duties.
- d. The administrator may not commit funds of the District without the approval of the Board of Managers.

**V. Managers' authority**

- a. No manager may speak on behalf of the District unless authorized to do so by the Board of Managers.
- b. No individual manager may provide direction, instructions or authorization to the administrator unless specifically authorized to do so by the Board of Managers.



### Schedule of Regular Activities

The District will observe the following schedule of required activities to ensure continued compliance with laws and regulations:

- The District conducts its annual business meeting in January. At that meeting the Board of Managers:
  - Approves a schedule of ~~regular~~ meetings of the Board of Managers ~~and Citizens Advisory Committee~~ for the ensuing year.
  - Reviews insurance needs and current coverage.
  - ~~Authorizes, biennially, the solicitation of engineering, legal, auditing, accounting and other professional services proposals, per Minnesota Statutes section 103B.227, subdivision 5.~~
  - Names:
    - a District depository bank(s),
    - a permit security depository for bonds and letters of credit
    - a permit security depository for cash escrows,
    - and an official newspaper for publication of notices.
  - Names individuals to serve on the District's Citizens Advisory Committee, in compliance with Minnesota Statutes section 103D.331.
  - Names managers to serve on the Personnel Committee.
  - Reviews the District's fee and permit security schedules and directs the administrator to prepare revisions as warranted for adoption by resolution.
  - Reviews and, as necessary, directs the preparation of updates to its Governance Manual.
  - Reviews, as necessary, the Employee Policy Manual.
  - Confirms receipt of broker certificates for securities.
  - Receives updated mileage reimbursement rates.
- The District annually publishes a newsletter or other watershed-wide communication that explains the District's programs, lists the members of the Board of Managers and notes District contact information, per Minnesota Statutes section 103B.227, subdivision 4. The District will maintain this information on its website as well.
- ~~The District Authorizes, biennially, the solicitation of engineering, legal, auditing, accounting and other professional services proposals, per in accordance with Minnesota Statutes section 103B.227, subdivision 5.~~
- The District annually audits its accounts and expenditures, per in accordance with Minnesota Statutes section 103D.335, subd. 1.
- The District annually submits to the Board of Water and Soil Resources a financial, activity and audit report each year by May 1 (within ~~120-180~~ days of the end of the District's fiscal year), per in accordance with Minnesota Statutes section 103B.231, subdivision 14, and Minnesota Rules 8410.0150, subpart 1, ~~and submits~~ The audit report is also submitted on the same timeline to the Office

**Commented [A6]:** Remove from January and put some other time?

**Commented [A7]:** If the Pers. Cmte is not to be a standing committee, it's a task force and doesn't need to be in policies. (You have it listed in materials for 1/20/21 mtg as an ad hoc committee.

of the State Auditor an audit report by May 1 each year ~~(within 120 days of the end of the District fiscal year), per Minnesota Rules 8410.0150, subpart 1.~~

- The District administrator annually prepares, in July, a report to the board on the status of fund balances in relation to the Fund Balance Policy
- The administrator, as the Data Practices Act responsible authority, reviews in July each year the District's DPA policy and associated protocols to ensure harmony with current law, in accordance with Minnesota Statutes section 13.05, subd. 1.
- The administrator annually assesses in July each year whether the District has abandoned property and returns abandoned property, if any, in accordance with the schedule in the Policy for Management of Permit Fees, Permit Securities and Abandoned Property.
- Annually on or before September 15 the District holds a public hearing on its adopts a budget for the next year and ~~decide on~~ the total amount of funding necessary to be raised from ad valorem tax levies to meet the budget. ~~After the hearing and with consideration of comments received, the board adopts the budget and levy, and the levy is then certified to Hennepin County. At the same meeting as the public hearing, the District announces the date of a final opportunity for citizens to comment on the budget and levy at the December meeting of the board of managers.~~

**BYLAWS OF THE  
NINE MILE CREEK WATERSHED DISTRICT**

Adopted August 1960, amended ~~November 21, 2012~~~~February 18, 2015~~[DATE], 2021

These bylaws establish rules governing the conduct and procedure of the Nine Mile Creek Watershed District (District) Board of Managers (Board), in compliance with Minnesota Statutes section 103D.315, subdivision 11.<sup>1</sup>

- I. **Office.** The District ~~will maintain~~s its principal place of business and its official records in ~~an its~~ offices located within the watershed, ~~presently at 12800 Gerard Drive, Eden Prairie MN 553467710 Computer Avenue, Suite 135, Edina, MN 55435.~~
- The Board may change the location of its principal place of business in accordance with Minnesota Statutes section 103D.321, subdivision 2.<sup>2</sup>
- II. **Board of Managers.** The Board ~~shall~~ consists of five managers appointed by the commissioners of Hennepin County. Managers serve three-year terms. Terms of office begin September 30 of the year of appointment, unless the county delays appointment of a manager. A manager ~~shall serve~~s until his or her replacement is appointed.
- a. *Vacancy.* Any manager who is unable to fulfill his or her term ~~shall~~must notify the Hennepin County Commission to allow the commission to appoint a replacement in a timely manner.
- b. *Compensation.* The Board may elect to compensate its members for attending meetings and performing other duties necessary for the proper management of the District and reimburse managers for expenses incurred in the performance of official duties. Compensation will be in accordance with Minnesota Statutes section 103D.315, subdivision 8, and policy established by the Board.

**Commented [A8]:** Add to this? E.g., for lesser engagements.

<sup>1</sup> All references in these bylaws to statutes are to the section or sections as they may be amended.

<sup>2</sup> *References to statutes.* All references in these bylaws to statutes are to the section or sections as ~~they may~~ be amended and presently effective.

- c. Oath, Bonding. Before a manager assumes his or her duties, he or she must swear or affirm the oath office in accordance with the Minnesota Constitution article V, section 6. The written oath, signed by the manager, will be filed with the state Board of Water and Soil Resources in accordance with the law. †The District will obtain and file a bond for the manager, at District expense, in accordance with Minnesota Statutes section 103D.315, subdivision 2.
- d. Insurance. The Board, at District expense, will provide insurance for the managers for liability protection on such terms and in such amounts as the Board determines.
- e. Attendance. Managers are expected to attend meetings of the Board of Managers. A manager's failure to attend absence from three consecutive meetings may be reported, at the Board's discretion, to the Hennepin County Commission.

III. **Officers.** The Board annually, at its January meeting, will elect from among its members the following officers: president, vice president, secretary and treasurer. No manager may hold more than one office at a time. If any officer cannot complete his or her term of office, the Board immediately will elect from among its members an individual to complete the unexpired term. An officer's term as officer continues until a successor is elected or the officer resigns. The Board, by action at an official meeting, may appoint a manager as an officer *pro tem* in the event an officer is absent or unable to act, and action by that officer is required.

- a. President. The president will:
  - i. preside at all meetings as chair of the Board.
  - ii. sign and deliver in the name of the District contracts, deeds, correspondence or other instruments pertaining to the business of the District;
  - iii. be a signatory to the District accounts;

- iv. be a signatory to District documents if the treasurer or secretary is absent or disabled, to the same extent as the treasurer or secretary.
- b. *Vice President.* The vice president will:
  - i. preside at meetings as chair in the absence of the president;
  - ii. be a signatory to the District accounts;
  - iii. be a signatory to District instrument and accounts if the president is absent or disabled, to the same extent as the president.
- c. *Secretary.* The secretary will:
  - i. be a signatory to resolutions and other documents certifying and memorializing the proceedings of the District;
  - ii. maintain the records of the District;
  - iii. give the required public and Board notice of all meetings in accordance with Minnesota Statutes chapter 13D;
  - iv. ensure that minutes of all Board meetings are recorded and made available in a timely manner to the Board and maintain a file of all approved minutes;
  - v. keep a record book noting therein the proceedings at all meetings.
- d. *Treasurer.* The treasurer will:
  - i. be a signatory to the District accounts and financial records;
  - ii. present a report at the monthly meeting of the Board of Managers that includes a current check register and tracks each of the watershed district's funds and account balances;
  - iii. provide such other records as are necessary to inform the Board the financial condition of the District.
- e. The following officers' duties will be performed by the administrator under the direction of the Board of Managers:
  - i. develop and maintain the District's financial accounts and records;
  - ii. arrange for the annual audit of the District's financial records;

iii. provide the Board with such records as are necessary to describe the financial condition of the District;

iv. deposit all monies, drafts and checks in the name of and to the credit of the District at such banks and depositories as the Board may approve.

v. maintain records of the District;

vi. ensure that minutes of all Board meetings are recorded and made available in a timely manner to the Board, and maintain a file of all approved minutes including corrections and changes; and

~~iv-vii.~~ provide for proper public notice of all meetings.

IV. **Committees.** All standing and special committees will be appointed by majority vote of the managers. Committees may include persons who are not managers, but no member of a committee other than a manager may offer a motion or vote on a matter put before the Board. It ~~shall~~will be the duty of a committee to act promptly and faithfully in all matters referred to it and to make reports as directed on the date established by the chair or Board. A complete and accurate copy ~~shall~~will be made by the secretary and filed and recorded in the office of the Board.

a. *Citizens Advisory Committee.* There is established, in accordance with Minnesota Statutes section 103D.331, a citizens advisory committee to the Board of Managers. The committee ~~shall~~will be known as the Citizens Advisory Committee (CAC). The CAC ~~shall~~will advise the Board of Managers on water-related community concerns and issues as it sees necessary and fit, and will assist with the development and implementation of the education and outreach activities of the District. The CAC ~~shall~~will meet according to a schedule set by the ~~Board of Managers-CAC~~ and at such other times as may be determined by a majority of the members. All meetings of the CAC are open to the public.

b. *Technical Advisory Committee.* There is established, in accordance with Minnesota Statutes section 103D.337, a ~~T~~echnical ~~a~~Advisory ~~e~~Committee

(TAC) to the Board of Managers. The TAC consists of representatives of affected statutory and home rule charter cities, counties, and soil and water conservation districts, as well as other governmental entities with jurisdiction in the Nine Mile Creek watershed. The TAC is convened as necessary and appropriate to advise the Board of Managers on regulatory and other technical matters.

c. Personnel Committee. The board of managers establishes a Personnel Committee, consisting of two managers to be selected annually to review for the purpose of reviewing employee benefits, compensation, employee manual and other personnel matters.

e.d. The Board of Managers may not delegate supervision of the District administrator or any District employee to a committee.

- V. **Meetings.** In January each year, The Board ~~shall~~will annually set a schedule of regular meetings and, as needed, workshops. Adjourned and special sessions may be held at such times as the Board deems proper.
- a. Special meetings and emergency meetings may be called by the chair or any manager. Notice of a special meeting or emergency meeting will be made by the secretary in accordance with the Open Meeting Law, Minnesota Statutes chapter 13D.
  - b. All meetings of the Board ~~shall~~will be open to the public, except that a meeting or portion of a meeting may be closed in accordance with the Open Meeting Law.
  - c. No public hearing convened by the Board will be closed before the time specified for the hearing in the notice.
  - d. At all meetings of the Board, the majority of the members appointed ~~shall~~constitutes a quorum to do business, but a minority may adjourn from day to day.
  - e. *Conduct of meetings.* At the time appointed for a meeting, the members ~~shall~~will be called to order by the president as chair, and in his or her

absence, the temporary chair. Upon appearance of a quorum, the Board ~~shall~~will proceed to do business in accordance with the agenda, as may be amended, approved by the Board.

- i. The chair ~~shall~~will preserve order and decide questions of order, subject to an appeal by any member. The chair may make motions, second motions, or speak on any questions, provided, however, that in order to do so, upon demand of any one Board member, he ~~shall~~will vacate the chair and designate a temporary chairman. The chair ~~shall be~~is entitled to vote in the same manner as other members of the Board.
- ii. Every member before speaking ~~shall~~must address the chair and ~~shall~~must not proceed until recognized by the chair. A member called to order ~~shall~~must immediately suspend his remarks until the point of order is decided by the chair.
- iii. Any person may address the Board on a matter properly before the Board. The chair may limit the time allowed for a manager or other person addressing the Board to speak.
- iv. Any person may request that a matter be heard by the Board, and the Board will consider such request and determine whether and, if approved, when to take up the matter or to defer the matter pending receipt of additional information thereon and to direct the administrator to obtain such information.
- f. *Appeal of a chair ruling.* A manager may appeal to the Board from a ruling of the chair. If the appeal is seconded, the manager may speak once solely on the question involved and the chair may explain his or her ruling, but no other manager will participate in the discussion. The appeal will be sustained if it is approved by a majority of the managers present, exclusive of the chair.



- g. *Amendment of meeting rules.* These rules may not be repealed, altered or amended except by majority vote of all members of the Board and upon notice given at a preceding meeting. In all points not covered by these rules, the conduct of a meeting of the Board ~~shall~~will be governed by *Robert's Rules of Order Newly Revised* (10<sup>th</sup> Edition). *Robert's Rules* may be temporarily suspended by consent of a majority of the managers.
- h. *Resolutions.* A resolution will be presented in writing at a meeting or the preparation of a resolution reflecting Board action may be delegated to staff. The material terms of a resolution must be stated in the motion to adopt. Each resolution and rule passed by the Board will be signed by the secretary and filed in the official actions of the District maintained at the District office. Proof of publication of a rule will be attached to and filed with the rule.
- i. *Minutes.* Minutes of all meetings of the Board of Managers ~~shall~~will be recorded, reviewed by the Board, adopted as may be amended and kept at the District offices. Minutes of the meeting ~~shall~~will be kept by the secretary, and, when signed, will constitute ~~an~~the official record and journal of the Board proceedings. All written communications addressed to the Board, other materials included in a Board meeting packet, and all documents and materials submitted to the record in the course of a Board meeting will be filed in the District office with the minutes of the meeting.
- j. *Voting.* When the chair puts a question to the Board, every manager present ~~shall~~must vote or abstain, unless for special reasons the Board ~~shall~~ excuses him or her. Any member may request that the yeas and nays be recorded on any motion voted on by the Board or a committee, and such request will be granted by the chair of the Board or committee. The manner of voting on any business coming before the Board may be by voice vote. No manager may appoint a proxy to vote on any question. Any affirmative or negative vote or abstention by any member ~~shall~~must be entered in the minutes on

his or her request. ~~Affirmative and negative votes shall be recorded on any motion at the request of one manager and the results entered in the minutes.~~

VI. **Conflict of Interest.** The Nine Mile Creek Watershed District Board of Managers seeks to operate in accordance with high ethical standards and wishes to establish clear guidelines for the ethical conduct of District business. Ensuring that conflicts of interest do not affect District proceedings is an essential element of maintaining high ethical standards. Therefore, to supplement and specify its commitment to compliance with the Ethics in Government Act, Minnesota Statutes section 10A.07, the Board of Managers adopts the following conflict of interest policies:

- a. *Disclosure of conflicts.* A manager who has a personal financial interest, or other private interest or relationship that limits the manager's ability objectively to consider, deliberate or vote, in a matter scheduled to come before the Board must prepare a written statement describing the matter requiring action and the nature of the potential conflict. The manager affected will deliver the statement to the president of the Board of Managers prior to the Board's consideration of or taking action on the matter. If a potential conflict arises and a manager does not have sufficient time to prepare a written statement, the manager must orally inform the Board prior to discussion of the matter.
- b. *Abstention.* A manager must abstain from chairing any meeting, participating in any vote, offering any motion, or participating in any discussion on any matter that may substantially affect the manager's financial interests or those of an associated business or family member, unless the effect on the manager is no more than on any other member of the manager's business classification, profession or occupation. Managers must also abstain from chairing any meeting, participating in any discussion, offering any motion, or voting on any matter in which a private interest or relationship of the manager limits the manager's ability

objectively to consider, deliberate or vote. The manager's nonparticipation in the matter will be recorded in the minutes.

- VII. **Financial Practices.** All expenditures and accounting will be made in accordance with the Internal Controls and Procedures for Financial Management, adopted ~~November 21, 2012, as may be amended~~ by the board of managers.
- VIII. **Bylaws.** These bylaws are adopted to facilitate the transaction of Board business. They should not be permitted to divert or hinder the express intent and desire of the Board. Informal compliance and substantial performance ~~shall~~ will be sufficient under the foregoing rules in the absence of an objection seasonably taken. An objections will be deemed not seasonably taken as to any procedural matters provided for herein if a manager present at the meeting fails to object and request compliance with these rules during the meeting. To be seasonably taken by an absent member, an objection must be taken at the next regular meeting of the Board.
- a. Any provision of these bylaws may be suspended temporarily by a majority vote of the Board, except a provision that preserves the right of an absent manager.
  - b. These bylaws may be amended by a majority of the Board of Managers on 30 days written notice of the proposed change(s), unless such notice is waived by all managers. Notice of any amendment is to be contained in the notice of the meeting at which the proposed amendment is to be considered. An amendment to these bylaws must be approved by a four-fifths majority of the Board.
  - c. Interpretation of the bylaws and any amendment thereto ~~shall~~ will rest with the Board of Managers. The bylaws are to be interpreted as consistent with the watershed district implementing laws, Minnesota Statutes chapters 103B and 103D, and other governing laws. In the event of a conflict, the governing laws control.

- d. These bylaws ~~shall~~will be reviewed by the Board at least once every five years.
- e. These bylaws govern internal conduct of the business of the Nine Mile Creek Watershed District and neither create nor elucidate any right in a manager or any third party.

Adopted as amended by the Board of Managers of the Nine Mile Creek Watershed District

this ~~21<sup>st</sup>~~<sup>d</sup> day of ~~November 2012~~ 2021.

Date:

Jodi Peterson Louise Segreto Erin Hunker,

Secretary

## Nine Mile Creek Watershed District

### Policies and Procedures for Public Access to Documents

Adopted as amended ~~November 21, 2012~~February 18[DATE], 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 ~~exempted under the protected by law in cases~~ 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~~must 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 ~~sent by U.S. Mail, addressed-delivered~~ to the "Data Practices Compliance Official," at the following address:

Nine Mile Creek Watershed District  
12800 Gerard Drive  
Eden Prairie MN 553467710 Computer Avenue  
Suite 135  
Edina, MN 55435

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. ~~In the case of an individual who wishes to inspect District data, the~~ 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 be withheld from inspection pursuant to the DPA have been segregated, and that ~~someone is assistance~~ available to assist the requesting ~~individual 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 ~~of 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, ~~the availability of copying equipment,~~ 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 costs will be assessed based upon 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 warnings 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**

The Nine Mile Creek Watershed District (District) establishes the following to protect and ensure the accuracy of not-public data on individuals (i.e., private and confidential data).

*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:

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

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## **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 / Tennesen 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:

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

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

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~~Other p~~Persons or entities who are authorized to receive the information include:

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Before NMCWD uses private data about you for any purpose other than those described

here, it must obtain your written permission. NMCWD also must obtain your written permission before releasing private data about you to someone other than those identified in this notice.

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**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.

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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.

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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 \_\_\_\_\_

**Nine Mile Creek Watershed District  
 Records Retention Schedule**

Adopted November 21, 2012

All District records are created and retained in electronic forms, except that record series shaded below may be created and/or retained in hard copy form.

**Administration**

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Advisory and technical committees – agendas, minutes, reports, related documents	Retain 10 years, then may be transferred to state archives	Public	
Affidavits of publication a. General notices, including project public hearings b. Rules	a. Retain 6 yrs b. Retain permanently	a. Public b. Public	
Agenda, board meetings and workshops	Retain 10 years, then may be transferred to state archives	Public	
Agreements and contracts, not otherwise scheduled herein	Retain 10 yrs after paid and audited	Public	
Annual reports	Retain 10 yrs, then transfer to state archives	Public	
Attorneys' opinions a. Opinions of District attorney and correspondence	a. Retain permanently or transfer to state	a. Public b. Public/Private-	13.393

relating thereto b. Official interpretation regarding questions of legal rights or liabilities affecting District	archives when no longer needed b. Retain 10 yrs, then transfer to state archives	nonpublic	13.39
Authority to dispose of records	Retain permanently	Public	
Bids and Quotations a. Accepted, noncapital projects b. Rejected, noncapital projects	a. Retain 10 yrs after completion of project b. Retain 6 yrs	a. Public/nonpublic b. Public/protected nonpublic until all bids opened	13.37
Budgets – record copy	Retain permanently or transfer to state archives	Public	
Consultant Contracts	Retain 10 yrs	Public	
Correspondence a. Constituents b. Municipalities/State Agencies c. Engineer d. Financial e. Transitory, such as electronic mail not in one of the above categories	d. Retain 6 yrs, then archive if documents historical e. Retain 6 years, then archive if historical f. Retain 10 yrs, then transfer to state archives g. Retain 5 yrs then transfer to state archives h. Retain until read	Private/public	13.37; 13.44
Drafts, duplicates, notes and other documents that have not become part of an official transaction, not otherwise scheduled herein	Retain 2 yrs	Public	
Governance a. Bylaws b. Policies	a. Retain permanently b. Retained only until	a. Public b. Public	

	superseded		
Historical data and photographs	Retain permanently or transfer to state archives	Public	
Inventories – equipment supplies, etc.	Retain 10 yrs	Public	
Lawsuits a. General b. Civil Lawsuits c. Criminal Lawsuits d. Attorneys' opinions, attorneys' briefs, testimony, depositions, correspondence, etc	a. Retain 10 yrs after settlement or resolution by court, administrative order and then transfer to state archives b. Retain 20 years after last activity c. Retain 2 years after last activity d. Retain 10 yrs, then archive	a. Public/private b. c. d. Public/private /and non-public	13.30, 13.39  13.393, 13.39
Leases	Retain 10 yrs after expiration of lease	Public	
Levy (tax) files – tax levies, related correspondence	Retain 5 yrs then transfer to state archives	Public	
Membership association documents (MAWD, Metro MAWD, etc.)	Retain 3 yrs	Public	
Minutes – Board meetings and workshops	Retain permanently	Public	
Newsletters, press releases generated by the District	Retain 10 yrs	Public	
Notices – official District meetings	Retain 6 yrs	Public	
Public hearings records	Retain 6 yrs or until recorded in minutes, do not archive	Public	
Recordings a. Board meetings and workshops – audio recordings, closed meetings b. Board meetings and workshops – open	a. Tapes and other recordings may be discarded 3 yrs after meeting; 8 yrs or until purchase or sale is completed or abandoned for real	a. Nonpublic/public b. Public	13D.05, subd. 3; 13.37

	estate negotiations. b. Tapes and other recordings may be reused or discarded 1 yr after formal approval of written minutes by board		
Technical Information a. Printed material regarding the District b. Printed material not regarding the District	a. Retain 10 yrs, then transfer to state archives b. Discard when no longer needed	a. Public b. Public	

**Real Estate**

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Deeds	Retained until property is sold, then transfer to new owner; maintain copy permanently	Public	
Ditch records	Retain permanently	Public	
Easements a. Originals b. Temporary easements	a. Retained permanently and do not archive b. Discard after project completion or when no longer needed, whichever is later	a. Public b. Public	
Hazardous materials reports – phase I and II reports, leaking underground storage tank reports	Retain permanently	Public	
Property records (well records, building inspections, etc.)	Retain 20 yrs after sale of property	Public	
Property surveys	Retain permanently	Public	

Transaction records	Retain 10 yrs after sale of property	Public/ Confidential/ Protected Non-public	13.44; 13.585
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**Bonds**

<i>Name - Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Contractor license bonds, certificates of insurance, etc.	Retain 6 yrs after completion of contract	Public	
Fidelity bonds – managers	Retain 6 yrs after completion of service by manager	Public	
Performance and payment bonds	Retain 6 yrs after completion of contract	Public	
Permit financial assurances – bonds, letters of credit	Retain 6 yrs after permit closure <sup>3</sup>	Public	

<sup>3</sup> Retain copy if original returned to provider.

**Financial/Accounting**

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Assessment rolls – copies of assessment rolls received from county auditor	Retained 6 yrs after final payment	Public	
Audit reports	Retain permanently	Public	
Billing statements	Retain 6 yrs	Public	
Bank statements – slips, bonds and reconciliations	Retain 6 yrs	Public	
Budget expenditure reports	Retain permanently	Public	
Checks – paid and returned a. Accounts payable b. Payroll	a. Retain 6 yrs b. Retain 6 yrs	a. Public b. Public/ private	
Receipt registers	Retain permanently, and not archived	Public	
Deposit slips	Retain 6 yrs	Public	
General ledger – general, month-end	Retain permanently and do not archive	Public	
Investment documents – amounts invested and interest earned	Retain 4 yrs after maturity	Public	
Payroll	Retain permanently	Public/private	13.43
Pension and retirement plan	Retain permanently	Public or private	
Purged accounts	Retain 6 yrs (irrespective of audit)	Public	
Receipts and receipt books	Retain 6 yrs and do not archive	Public	
Staffing lists	Retain 6 yrs	Public	
Time sheets	Retain 6 yrs	Public/Private	13.43
W-2 statements	Retain 6 yrs	Public/Private	13.43
W-4 statements	Retain until replaced		
Workers' compensation reports	Retain 20 years	Public/Private	176.231
1099 statements	Retain 6 yrs	Public/Private	13.43

**Insurance**

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Insurance – automobile, fire or other perils, property, public officials, general liability, umbrella liability	Retain 6 yrs after expiration	Public	
Workers’ compensation a. Claim register b. Policies	a. Retain permanently b. Retain 6 yrs after expiration	a. Public b. Public	a. 176.231

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**Permits**

<i>Name - Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Applications - permits	Retain 10 yrs, then transfer to state archives	Public	
Correspondence - relating to permits	Retain 10 yrs, then transfer to state archives	Public	
Engineer's reports	Retain 10 yrs, then transfer to state archives	Public	
Inspectors' reports - includes reports, inspectors' documents relating to permit inspections	Retain 10 yrs, then transfer to state archives	Public	
Permit financial assurances - bonds, letters of credit	Retain 6 yrs after permit closure	Public	
Permits	Retain permanently	Public	
Plans	Retain permanently	Public	

**Personnel**

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Affidavit of publication for job opening	Retain 2 yrs	Public	13.43
Affirmative action files	Retain permanently	Public/Private	13.39, 13.43
Applications for employment – not hired	Retain 1 yr	Public	
Personnel policies and procedures, administrative policies	Retain permanently	Public	
Employment contracts	Retain 5 yrs after expiration	Public	
Equal employment opportunity reports, summary date	Retain 3 yrs	Public	
Examination file – completed examinations	Retain 2 yrs	Private	13.43
Employee medical records	Retain 5 yrs after separation from District	Public/private	13.43
Family Medical Leave Act documents	Retain 3 yrs in medical file, not in employee personnel file	Private	13.43
Grievance file	Retain 5 yrs after separation, not in employee personnel file	Public/private	13.43
Job descriptions	Retain until superseded	Public	
Personnel files – applications, accident reports, background check results, citations, personal history, employee references, attendance, disciplinary actions, performance evaluations, letters of appointments or promotion, termination or resignation	Retain 5 yrs after separation	Public/private	13.43
Payroll record – master copy	Retain permanently	Public/private	13.43
Unemployment claims, compensation	Retain 6 yrs	Public/private	13.43
Background check results – not hired	Retain 30 days	Nonpublic	13.87

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**Projects**

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Board documents – resolutions, findings, conclusions	Retain 10 yrs, then transfer to archives	Public	
Contracts a. Petitioned projects b. Non-petitioned projects	a. Retain permanently b. Retain 10 yrs, then transfer to state archives	Public	
Correspondence	Retain 10 yrs, then transfer to state archives	Public	
Engineer’s reports and related documents	Retain 10 yrs, then transfer to state archives	Public	
Petitions (for projects)	Retain 10 years, then transfer to state archives	Public	
Property surveys	Retain permanently	Public	
Public hearing documents – non-petitioned projects	Retain 10 yrs, then transfer to state archives	Public	
Public hearing documents – petitioned projects a. notices, written testimony, audio b. Related public hearing documents	a. Retain 6 yrs or until recorded in minutes; do not archive b. Retain 10 years and do not archive	a. Public b. Public	

**Programs**

<i>Name – Description</i>	<i>Retention, Archiving Instructions</i>	<i>Classification</i>	<i>State Statutory Reference</i>
Water quality, lake elevation, stream-flow a. Field notes and raw data b. Final reports	a. Retain until final report completed b. Retain permanently or transfer to state archives	Public	
Public opinion surveys	Retain permanently or transfer to state archives	Public	
Plans a. Watershed management plans b. Local water management plans c. Program plans and work plans – approved by Board	a. Retain permanently or transfer to state archives b. Retain until updated c. Retain 6 yrs and do not archive	a. Public b. Public c. Public	
Rules – District approved	Retain permanently	Public	

**Nine Mile Creek Watershed District**  
**Policy for Management of Permit Fees, Financial Assurances and**  
**Abandoned Property**

Adopted November 21, 2012

As provided by state law, the Nine Mile Creek Watershed District (District) receives fees from applicants to reimburse the District for the costs of processing and administering permits required by the District rules. The District also receives bonds, letters of credit and cash deposits (checks) as financial assurances to secure the performance of permittees in compliance with permit terms and conditions. To ensure that such assets are managed in accordance with sound financial practices and state law governing local government financial practices and management of abandoned property, the District establishes the following policy and protocols for the management of financial instruments, permit fees, and cash escrows.

1. **Permit fee payments.** The District will accept, process and maintain permit fees in accordance with District rules and the following protocols.
  - a. The District will not accept cash in payment of permit fees.
  - b. Checks received by the District in payment of permit fees will be deposited within 10 business days of receipt.
2. **Financial assurance deposits.** The District will catalogue and maintain financial assurances and cash escrows in accordance with the following protocols:
  - a. Financial assurance instruments (bonds, letters of credit and checks) received by the District to secure performance of permit conditions will be logged in the Financial Assurance Log created for such purposes, then copied. A copy will be filed at the District offices. The Financial Assurance Log will include, at a minimum, the following information:
    - i. Permit number for which the financial assurance instrument is provided;
    - ii. Name of the permittee/escrow provider;
    - iii. Name, for bonds and letters of credit, of the surety;
    - iv. Amount(s) of the financial assurances provided;
    - v. Expiration date, if any, of the financial assurance;
    - vi. Location of the financial assurance instrument or deposit.
  - b. Original bonds and letters of credit will be deposited for safekeeping at a location to be designated annually by the District Board of Managers.
  - c. Submittal of checks to satisfy financial assurance requirements is disfavored by the District. But when, in the judgment of the District administrator, it is not reasonable to require a permit applicant to obtain a bond or letter of credit, the applicant may submit a check for deposit by the District to serve as the permit financial assurance. In such circumstances, the permittee/escrow provider will be required as a condition of permit

issuance, transfer or renewal to enter into a cash escrow agreement with the District that specifies the terms and conditions under which the District accepts and holds the escrow, as well as the circumstances under which the District may use the escrowed funds.

- i. The District, with the advice of counsel, will maintain a cash escrow agreement template for use by permittees/escrow providers.
  - ii. The District will accept only certified checks or other bank drafts in payment of cash escrows.
  - iii. Permit approval may be revoked for failure to comply with this requirement.
- d. No check will be accepted by the District to serve as a financial assurance to secure performance of permit conditions until District staff has verified receipt of an associated executed escrow agreement, specifying the required deposit amount and permit to be secured by the escrow. The check must be in the amount specified in the associated escrow agreement and must bear the number of the District permit(s) to be secured.
- e. Checks received by the District as financial assurances will be deposited within 10 business days of receipt in an account designated by the administrator exclusively for permit escrows. The account will be at a board-designated depository institution.

3. **Maintenance of valid financial assurances.** To ensure that the District has the capacity to assure compliance with its rules and protect the District's water resources in the event of noncompliance with permit conditions and/or rules, District staff will follow the protocols below to ensure that financial assurances of permit performance remain valid and enforceable:

- a. District compliance with the protocols in this section will be the responsibility of the District administrator.
- b. The administrator will maintain the Financial Assurance Log.
- c. The administrator will review the Financial Assurance Log monthly to ensure the continuing validity of financial assurances provided for active permits by identifying bonds and letters of credit that will expire within the ensuing 90 days.
- d. The administrator will determine – in the course of his or her monthly review of the Financial Assurance Log – whether replacement of the financial assurance is needed for a particular project, and, if so, alert the permittee to the need to provide a replacement instrument at least 60 days prior to the expiration of the existing instrument.
- e. If deemed necessary in response to a permittee's unwillingness or inability to provide a replacement financial assurance, the administrator will contact counsel at least 30 days prior to the expiration of the financial assurance to initiate procedures to draw on the existing financial assurance.
  - i. The administrator will ensure that proper authorization for a financial assurance draw is secured in a timely manner, with a priority on the protection of District water resources.

4. **Return of financial permit assurances.** Financial assurance instruments will be returned in accordance with applicable District rules, including sections 5.5 and 12.4.
- a. The administrator will monthly designate financial assurances that may be returned in whole or in part to the surety (with notice to the principal/permittee) and, upon receipt of required documentation, take the steps necessary to return such instruments and/or funds.
  - b. The administrator will maintain record of returned financial assurances in the Financial Assurance Log and retain a copy of original financial assurance documents in compliance with the District records retention schedule.
5. **Abandoned property procedures.** State law imposes requirements applicable to any intangible asset in the District's possession that remains unclaimed for three years or more after the asset is no longer needed for District purposes (e.g., three years after a permitted project is completed and the associated financial assurance becomes eligible for release in accordance with District rules). To ensure compliance with abandoned-property requirements, the District establishes the following protocols.
- a. The District will annually assess whether cash escrows remain on deposit after completion of the applicable permitted work and attempt to return them. For cash escrows that have been in the District's possession for three years or more, unclaimed by the owner, staff will commence unclaimed property return procedures as follows.
    - i. By July 1 of each year, District staff will take reasonable steps to notify owners by mail of unclaimed property. A letter should be sent to all known addresses on file for the owner, notifying owner of the amount still held by the District and describing steps necessary to claim the property. Staff need not send such a letter if documentation in the District's possession indicates that the address(es) it has for the owner are inaccurate.
    - ii. If the owner cannot be found, the assets are deemed legally abandoned and the District will remit them to the state Commissioner of Commerce, along with the report required by Minnesota Statutes section 345.41, as may be amended, containing information on the identity of the owner of the unclaimed assets in the District's possession, a description of the assets, the date the assets became payable or returnable to the owner and any other information that may be required by the commissioner. Formatting and filing of the report will be in compliance with Department of Commerce guidance.
    - iii. By October 31 each year, the required report, verified by the administrator, should be filed with the commissioner and all assets unclaimed as of the preceding June 30 should be remitted to the commissioner.



- |
- iv. The District may deduct a service charge from the unclaimed assets remitted to cover costs of attempting to locate an owner and, if necessary, reporting and paying the unclaimed funds to the commissioner only if the escrow provider has agreed to the deduction of such charges.

DRAFT

## ESCROW AGREEMENT

### Between the Nine Mile Creek Watershed District and [—]

This Agreement is made by and between the Nine Mile Creek Watershed District, a watershed district under Minnesota Statutes Chapters 103B and 103D (NMCWD), and [—], a [—] (“Permittee”), to establish a cash escrow in fulfillment of financial assurance requirements under NMCWD Permit XX-XXX.

#### Recitals

A. Pursuant to Minnesota Statutes section 103D.345, the NMCWD has adopted and implements permitting rules governing development and other activity within the boundaries of the NMCWD that may have an impact on water resources.

B. NMCWD rules require as a condition of permit approval that a permittee provide and maintain a financial assurance in the form of a bond, letter of credit or cash escrow for the purpose of covering costs the NMCWD may incur in monitoring and inspecting activity under the permit and in responding to violations of NMCWD statutes, rules, permits and orders.

C. This Agreement documents that Permittee has submitted a cash escrow to fulfill a financial assurance obligation under Permit XXXX-XX and specifies the conditions and procedures under which the NMCWD will hold and may draw on the escrow.

Permittee and the NMCWD, in executing this Agreement, concur that it is legally binding.

#### Agreement

1. Permittee has submitted a cash escrow in the amount of \$XX,XXX. The NMCWD will hold the escrow in an escrow account where it may be commingled with escrow funds held by the NMCWD on behalf of parties other than Permittee. The NMCWD need not hold the funds in an interest-bearing account and Permittee will not be entitled to interest on the escrow. If the escrow amount is not credited promptly to the NMCWD account because the financial institution on which the instrument is drawn refuses to honor the draft, the NMCWD may declare this Agreement null and void by written notice to Permittee.

2. Additional escrow funds will be submitted by Permittee, and unused funds will be released to Permittee, in accordance with the NMCWD Rules and duly adopted resolutions and policies of the NMCWD Board of Managers.

3. Escrow funds will become the sole property of the NMCWD, and Permittee agrees to the relinquishment of all legal and equitable interest therein, as follows:

- a. The NMCWD may invoice Permittee for permit review, compliance monitoring, and other eligible costs in accordance with duly established NMCWD procedures.
- b. If after notice and opportunity to be heard the NMCWD finds violation of a NMCWD rule, permit or order, the NMCWD may give written notice to Permittee. The notice will describe the violation and the action required to correct it. If within twenty (20) days of notice delivery the violation has not been corrected and arrangements acceptable to the NMCWD have not been made, the NMCWD may without further notice take steps it deems reasonably necessary to correct the violation, and may have access to the property during reasonable times for that purpose. Provided, that the NMCWD will give 24 hours' notice before entry and exercise due care to avoid unnecessary disturbance or damage to the property. If the NMCWD finds that entry is required to address an occurring or imminent threat to water resources, it may enter and correct without prior hearing or opportunity to cure, but only to the extent reasonably necessary to address the threat.
- c. The NMCWD may invoice Permittee for reasonable costs incurred for activity under paragraph 3b. If payment is not made within 30 days, the NMCWD may transfer funds from the escrow account into NMCWD accounts and credit Permittee accordingly.

4. Permittee represents unconditionally that all escrow funds submitted hereunder are funds of Permittee. All obligations of the NMCWD under this Agreement in holding and using the escrow funds are to Permittee only. Nothing in this Agreement creates any right in any third party as against the NMCWD or in any way waives or abridges any immunity, defense or liability limit of the NMCWD. Permittee will not assign or purport to assign any interest in the escrow funds or this Agreement to any third party.

5. Nothing in this Agreement affects Permittee's legal right, if any, to appeal a finding of violation or to seek a legal determination of the purposes to which the NMCWD may use the escrow funds.

6. The Permittee agrees that, should the escrow funds submitted hereunder remain unclaimed by the Permittee or his successor in interest so as to become "abandoned property" as that term is defined in Minnesota Law, the District may assess a service charge from the unclaimed assets to cover costs of attempting to locate the Permittee or his successor in interest and, if necessary, reporting and paying the unclaimed funds as required by law.

7. This Agreement is effective on the signature of the parties and terminates when the District releases the escrow or declares the Agreement null and void under paragraph 1, above. The Agreement may be amended only in a writing signed by the parties. An

increase or decrease in the amount of escrow funds held by the NMCWD for permit XX-XX does not constitute an amendment to this Agreement.

8. Notice to Permittee under this Agreement is effective when sent by certified mail to Permittee's address as stated in the permit application or such other address as Permittee subsequently has provided to the NMCWD in writing. The law of the State of Minnesota will govern any legal proceeding concerning this Agreement. Venue for any such proceeding will be in the county where the real property that is the subject of this Agreement is located. The recitals are incorporated as a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

**NINE MILE CREEK WATERSHED DISTRICT**

By \_\_\_\_\_ Date: \_\_\_\_\_  
— Administrator

**PERMITTEE**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ [print name here]

This instrument was acknowledged before me on \_\_\_\_\_ (date) by \_\_\_\_\_ (name(s) of person(s)) as \_\_\_\_\_ (type of authority, e.g. officer, trustee, etc.) of \_\_\_\_\_ (name of party on behalf of whom the instrument was executed).

**Nine Mile Creek Watershed District  
Public Purposes Expenditures Policy**

Adopted ~~November 21, XXXXXX, 2015~~

Minnesota law mandates that governmental entities make expenditures only for public purposes and only as authorized to accomplish the purposes for which the entity was created. The Nine Mile Creek Watershed District (District) establishes the following policy and protocols to ensure that District expenditures serve clear, documented watershed district purposes. The District administrator will be responsible for the implementation of this policy and associated protocols.

1. **Travel.** The District may pay reasonable and necessary expenses for travel, lodging, meals and appropriate incidental expenses related to the performance of official District functions. Expenditures must be approved in advance by the administrator (for employees) or Board of Managers (for managers and the administrator) and must be directly related to the performance of District functions.
  - a. An employee or manager will be reimbursed for mileage expenses incurred when using the employee's or manager's personal vehicle to conduct District business. Mileage will be reimbursed at the tax-deductible mileage rate set by the federal Internal Revenue Service. Mileage expenses need not be approved in advance, but mileage expenses will be reimbursed only when accompanied by documentation of the date, number of miles traveled, purpose and destination(s). Mileage for employee commuting to and from the District offices will not be reimbursed.
  - b. Overnight in-state travel. Expenses eligible for reimbursement include:
    - i. Registration for workshops, conferences, seminars and other events pertaining to District business;
    - ii. Mileage and parking – use of personal vehicle (only) will be reimbursed at the tax-deductible mileage rate set by the federal Internal Revenue Service;
    - iii. Meals;
    - iv. Gratuities (15 percent of expenses incurred);
    - v. Lodging;
    - vi. Other actual expenses.
  - c. Overnight out-of-state travel. For out-of-state travel, the Board of Managers must approve all expenditures in advance. In determining whether to approve out-of-state travel, the Board of Managers will consider whether representation from the District has been requested by a state or federal governmental office or other host entity whose purpose or work particularly relates to the District's purposes, projects or programs. The District will reimburse airfare at the coach rate; mileage will be reimbursed at the IRS rate. If two or more managers or staff travel together by car, only the driver will receive reimbursement. ~~The District will reimburse the cost of renting~~

~~an automobile only if necessary to conduct District business.~~ Lodging and meal costs are limited to those which are reasonable and necessary. Receipts are required for lodging, airfare and meals.

Expenses eligible for reimbursement include:

- i. Round-trip tourist-class (or lesser-cost) airfare;
- ii. Registration for conferences, seminars and other events pertaining to District business;
- iii. Mileage and parking – use of personal vehicle (only) will be reimbursed at the tax-deductible mileage rate set by the federal Internal Revenue Service and ~~The District will reimburse the cost of renting an automobile will be reimbursed only if necessary to conduct District business.~~
- iv. Meals;
- v. Gratuities (15 percent of expenses incurred);
- vi. Lodging;
- vii. Other actual expenses.

2. **Employee and manager training.** The District may pay reasonable registration, tuition, travel and incidental expenses (including lodging and meals) for education, development and training when expenditures are directly related to the performance of duties. Expenditures must be approved in advance by the administrator (for employees) or Board (for managers and the administrator).
3. **Safety and health programs.** The District may pay for safety and health programs that promote healthier and more productive employees and reduce costs to watershed taxpayers, including costs associated with workers' compensation and disability benefits claims, insurance premiums and lost time resulting from employee absences.
4. **Manager and employee recognition and appreciation.** The District may pay for programs that recognize managers and employees for significant contributions to the District's performance and demonstrated commitment to the District's effective and efficient fulfillment of its purposes in accordance with an annual plan and budget for such events, approved by the Board. The District may pay for occasional manager and employee appreciation events or activities conducted in accordance with an annual plan and budget for such events, approved by the Board. No expenditure for manager or employee recognition will be made under this policy unless and until the structure, purposes and criteria for recognition are approved by the Board.
  - a. The District will not pay employees direct non-salary payments (i.e., bonuses) except as conditioned on achievement of performance goals specified in a written employment agreement.
  - a-b. NMCWD may recognize volunteers at the managers' discretion for outstanding contributions to NMCWD and the watershed, defined as at least 100 hours of volunteer service or a uniquely valuable service, to encourage volunteer involvement in NMCWD to increase citizen activism and cost-effectively enhance water-resource management. An award made under this provision will not exceed \$100 in value.

5. **Food and beverages.** The District may pay for food and beverages when necessary to ensure meaningful, efficient and effective participation of employees, managers or the public in activities, events and functions directly related to District purposes. Circumstances under which District expenditures for food and beverages will be allowed include:
- a. Food and/or beverages provided as part of a structured agenda of a conference, workshop, work session, outreach meeting or seminar, when the topic or subject of which relates to the official business of the District and the majority of the participants are not District employees or managers;
  - b. Food and/or beverages may be provided as part of a workshop or formal meeting primarily for District employees or managers where food and/or beverages are necessary to facilitate the conduct of the meeting, to ensure continuity and support the participation of employees, managers and other participants. Examples of potential qualifying events include:
    - i. An extended planning or operational analysis meeting;
    - ii. An extended meeting to develop long-term strategic plans;
    - iii. A structured training session for employees generally; or
    - iv. Official meetings of the District Board, a committee, task force or advisory group.
  - c. Food and/or beverages may be provided for occasional employee or manager recognition and appreciation events and activities, when approved by the Board in accordance with a District employee recognition and appreciation plan and budget.
  - d. The District may pay for food and/or beverage expenses incurred in connection with a meeting or event attended by employees and/or managers, the primary purpose of which is to discuss, negotiate or evaluate a plan, program, project or other endeavor directly related to District purposes.
  - e. District meetings, workshops and training sessions will be scheduled to avoid the need to provide food whenever possible.
6. **Outreach and stakeholder involvement.** The District may pay for community and stakeholder outreach and involvement programs to ensure that efficient and effective District programs, projects and meetings are conducted to gather public and intergovernmental input and participation in District planning, research, rulemaking and program or project design.
7. **Membership, donations.** The District may pay for membership in the Minnesota Association of Watershed Districts in accordance with Minnesota Statutes section 103D.335, subdivision 20. District funds may be expended for membership in other professional organizations if the organization is an association of a civic, educational or governmental nature and its activities are directly related to District purposes or the improvement of District operations. District funds may not be donated to any professional, technical or charitable organization, person or private institution. The District may contract for services rendered by such organizations.
8. **Protocols.** The following protocols are established to ensure compliance with above policies:

- a. For employees other than the administrator, the written approval of the administrator must be secured prior to an event or activity to qualify as a District expenditure.
  - b. All invoices or reimbursement requests must include or be accompanied by a copy of the administrator's written approval and must include itemized receipts or other appropriate documentation of expenses incurred. Documentation also must include the date the expense(s) were incurred, location, purpose, participating or attending individuals and relevant affiliation, explanation of the need for food and/or beverage for the meeting, event or activity, and any other relevant information.
  - c. Copies of all documentation specified herein will be recorded and maintained in accordance with the District records retention policy.
  - d. Expenses of less than \$25 for a particular event or meeting need not be approved in advance, but documentation must be submitted and the expense approved at a regular meeting of the Board of Managers within 45 days of the date the expense was incurred.
9. **Use of District property**
- a. District property, including but not limited to computers, phones, fax machines and other office equipment, will be used exclusively for District business, except for incidental personal use by District staff that does not interfere with or impede the conduct of District business to any substantial degree.
  - b. District property must be used for only its intended purposes.
  - c. The administrator may not dispose of any District property with a value of more than \$1,000 without prior authorization of the Board of Managers.
10. Authorization of consultant services. NMCWD will not compensate a consultant for services rendered that are outside a scope of work approved or directed by the Board of Managers. The Board of Managers may delegate authority to the administrator or an individual manager to authorize a specific scope of consultant services.
- ~~10-11.~~ **Miscellaneous.**
- a. The District administrator will secure an approval described above for expenses he or she will incur from the president of the Board of Managers, except that the administrator may approve or pay expenses for District-conducted programs, events and activities.
  - b. The District will not pay for alcoholic beverages under any circumstances.



## Capital Assets Policy

This accounting policy establishes the minimum cost (capitalization amount) that will be used to determine the capital assets that are to be recorded in Nine Mile Creek Watershed District's annual financial statements.

**Commented [A9]:** This is of course an accounting policy that other watershed district who own property have been directed to incorporate into their governance materials by their auditors. Dan Cavanaugh is reviewing.

### 1. Definition

A "Capital Asset" is a unit of property that: (1) has a useful economic life that extends beyond 12 months, and (2) was acquired or produced for a cost of \$2,500 or more. A Capital Asset must be capitalized and depreciated for financial-statement and bookkeeping purposes.

### 2. Capitalization thresholds

Nine Mile Creek Watershed District establishes \$2,500 as the threshold amount for minimum capitalization. Any items costing below this amount should be expensed in Nine Mile Watershed District's financial statements or books.

### 3. Capitalization method and procedure

A Capital Asset must be recorded at historical cost as of the date acquired. A donated asset is a Capital Asset and is recorded at the estimated value at the time of acquisition.

A Capital Asset must be depreciated on a straight-line basis using the following guidelines:

<u>Type</u>	<u>Estimated Life</u>
<u>Equipment</u>	<u>3-10 years</u>
<u>Land improvements</u>	<u>20-30 years</u>
<u>Buildings</u>	<u>25-50 years</u>

A tangible asset that costs less than the aforementioned threshold amount is recorded as an expense for purposes of NMCWD's annual financial statements. Assets with an economic useful life of 12 months or less are required to be expensed for financial-statement purposes, regardless of the acquisition or production cost.

### 4. Recordkeeping

An invoice substantiating the acquisition cost of each unit of property must be retained for a minimum of four years or consistent with the NMCWD's Record Retention Schedule, whichever is longer.

**Nine Mile Creek Watershed District**  
**Fund Balance Policy**

Adopted November 21, 2012

**I. Purpose**

Pursuant to Statement No. 54 of the Governmental Accounting Standards Board concerning fund balance reporting and governmental fund-type definitions, and the recommendation of its auditor, the Nine Mile Creek Watershed District establishes specific guidelines the District will use to maintain an adequate level of fund balance to provide for cash flow requirements and contingency needs because major revenue, most notably half of the District's annual levy, is received in the second half of the District's fiscal year.

The policy also establishes specific guidelines the District will use to classify fund balances into categories based primarily on the extent to which the District is legally required to expend funds only for certain specific purposes.

**II. Classification of Fund Balances, Procedures**

**1. Nonspendable**

- This category includes funds balance that cannot be spent because it is either (i) the funds are not in spendable form or (ii) NMCWD is legally or contractually required to be maintain the fundseed intact. Examples include inventories and prepaid amounts.

**2. Restricted**

- Fund balance is classified as restricted when constraints placed on those resources are either (i) externally imposed by creditors, grantors, contributors, or laws or regulations of other governments or (ii) imposed by law through constitutional provisions or enabling legislation.

**3. Committed**

- Fund balance that can only be used for specific purposes pursuant to constraints imposed by formal action of the District Board of Managers. The committed amounts cannot be used for any other purpose unless the District removes or changes the specified use by taking the same type of action it employed to commit those amounts.
- The District Board of Managers will annually or as deemed necessary commit specific revenue sources for specified purposes by resolution.

The ~~is formal~~ action must occur prior to the end of the reporting period, but the amount to be subject to the constraint may be determined in the subsequent period.

- The Board of Managers may remove a constraint on specified use of committed resources by resolution.

#### 4. Assigned

- Amounts for which a specified purpose has been stated, but are neither restricted nor committed. Assigned fund balance ~~in the General Fund~~ includes amounts that are intended to be used for specific purposes.
- In adopting this policy, the District managers delegate the authority to assign and remove assignments of fund balance amounts for specified purposes to the District administrator.

#### 5. Unassigned

- A residual classification ~~for the General Fund~~ that includes amounts that have not been assigned to other funds and that have not been restricted, committed, or assigned to specific purposes ~~within the General Fund~~. ~~The General Fund should be the only fund that reports a positive unassigned fund balance amount.~~ The District has established a minimum fund balance policy consisting of the following three components:
  - i. *Working capital.* The District will ~~strive to~~ maintain an unassigned fund balance ~~in the General Fund~~ of an amount not less than 50 percent of the next year's budgeted expenditures ~~for working capital of the General Fund~~. This will assist in maintaining an adequate level of fund balance to provide for cash flow requirements and contingency needs because major revenues, including property taxes and other government aids are received in the second half of the District's fiscal year.
  - ii. *Emergency reserve.* Beyond the working capital reserve in the first half of the year, the District will ~~strive to~~ maintain additional funds to provide for emergencies. At the end of each fiscal year, the District will establish an emergency reserve for unforeseen expenditures equal to 5 percent of the next year's budget.
  - iii. *Budget stabilization.* To buffer budget volatility, the District will ~~strive to~~ maintain a fund balance to help manage fluctuations in the operating budget. ~~At all times the District-NMCWD~~ will maintain a balanced budget, and ~~will strive to ensure~~ the

carryover balance at the end of the year ~~will be maintain at is~~ 5 to 7 percent of the next year's budget. These funds could be used to cover, for example, one-time expenditures to avoid future budget increases, offset shortfalls in revenue, fund unanticipated operative expenses.

A negative residual amount may not be reported for restricted, committed, or assigned fund balances ~~in the General Fund~~.

### III. Monitoring and Reporting

The District administrator will annually prepare a report on the status of fund balances in relation to this policy and present the report to the District managers in conjunction with the ~~development of the annual~~ budget audit report to the State or Minnesota.

When both restricted and unrestricted resources are available for use, it is the District's general policy to first use restricted resources, then use unrestricted resources as needed. When committed, assigned or unassigned resources are available for use, it is the District's general policy to use resources in the following order; 1) committed 2) assigned and 3) unassigned.

**Nine Mile Creek Watershed District**  
**Internal Controls and Procedures for Financial Management**

Adopted November 21, 2012

This policy is adopted to provide the Nine Mile Creek Watershed District (District) with written internal controls and procedures for financial management. Adherence to this policy and procedures will ensure that the District's finances are managed in accordance with generally accepted accounting principles and best practices, and will minimize District administrative costs.

- I. **Annual budget.** The administrator annually develops a proposed budget for presentation to the Board of Managers for review. After adjustments as directed by the Board, the District schedules and issues appropriate notice for a public hearing on the proposed budget. Following the public hearing but before September 15 each year, the Board of Managers adopts the annual budget and certifies it to the Hennepin County auditor. Pursuant to state Truth in Taxation law, after November 15 the board of managers holds a further informational public meeting to consider any further public comments on the budget and levy, and may adopt a reduced levy for certification to the county auditors no later than December 28.
  - a. Amounts in any approved budget category may not be reallocated or exceeded by more than 10 percent of the total program/project amount without approval of the Board of Managers.
  - b. Actual expenditures may not materially deviate from the amount in an approved budget category.
- II. **Annual financial statements.** Annual financial statements are approved accepted by the Board of Managers, then submitted to the Board of Water and Soil Resources and the Office of the State Auditor within 120-180 days of the end of each fiscal year.
  - a. In preparation for the annual audit of the District finances, the administrator prepares the following documents:
    - i. Copies of approved budgets and all budget amendments;
    - ii. Detailed general ledger (through year-end);
    - iii. Bank reconciliation and bank statements;
    - iv. Copies of disbursements and receipts;
    - v. Copy of tax (levy) settlements from Hennepin County;
    - vi. Copy of certification levy;
    - vii. Listing of accounts payable and copies of signed checks;
    - viii. Grant and other funding agreements;
    - ix. List of capital assets, showing all deletions and additions;

- x. Copies of invoices;
- xi. Approved minutes.
- b. The administrator annually presents the draft audit for approval review and acceptance to the Board of Managers at a monthly meeting.

III. **Monthly financial management protocols.**

- a. The District contracts with a certified public accountant to manage examine and prepare reconcile the checking accounts and investment funds of the District.
- b. The administrator receives monthly bills and invoices at the District office.
- c. The administrator reviews the bills and recommends payment; the accountant prepares checks pursuant to these recommendations to pay the monthly bills.
- d. The accountant also prepares a monthly treasurer's report that includes a current check register listing of claims for payment and tracks each of the District's funds and account balances.
- e. The administrator reviews the treasurer's report and distributes the report to the Board of Managers for the review prior to the Board's monthly meeting.
- e.f. The treasurer also reviews claims for payment to determine whether to recommend payment. All claims are available for review by any manager on request.
- f.g. At the monthly Board meeting, the treasurer presents the treasurer's report. The Board of Managers receives and discusses, as necessary, the treasurer's report, then authorizes payment of the monthly bills as presented in the check register.
- h. Following Board authorization to pay the bills, the administrator mails payment to vendors as authorized.
- i. The administrator reviews at least once each quarter all financial journal entries made by the accountant.

IV. **Spending Authority.** All expenditures by the District must be approved in advance by the Board, except that the Board by resolution may delegate to the administrator the authority to bind the District, with or without countersignature, to a purchase of goods or services, or to enter into a contract for same, when the cost thereof does not exceed \$5,000 or under other specified conditions.

- a. ~~The Board has authorized the administrator to expend up to \$1,000 on a single purchase without prior Board approval and affirms that authority in adopting this policy.~~
- a. The board authorizes the administrator to expend up to \$5,000 on a single purchase without prior board approval and between \$5,001 - \$10,000 with written concurrence from the president.

**Commented [A10]:** If the board wishes to delegate additional authority - on a programmatic or ad hoc basis -- it should not have to amend this policy to do so.

- b. The administrator may not ~~purchase~~ obtain any real estate or easements on real estate without prior authorization for the Board of Managers.

V. **Banking**

- a. The District maintains a current signature card at the depository bank.
- b. The administrator and treasurer may transfer funds between District accounts and may deposit funds into District accounts.
- c. Cash withdrawals from District accounts are prohibited.
- d. The administrator is authorized, after consultation with the treasurer, to invest District funds in certificates of deposit at the depository bank accordance with Minnesota Statutes chapter 118A.
- e. All deposits to District accounts must be made intact, and the District's bank is instructed not to return cash from a deposit to a District account.

VI. **Checking**

- a. The administrator is not an authorized signatory of District checks.
- b. All checks, drafts or other orders for the payment of money, notes or other evidence of indebtedness issued in the name of the District ~~shall~~ will not be valid unless signed by two managers, except that a check, draft or other order for payment of less than \$100 is valid with one manager's signature.

VII. **Credit card use.** The administrator is authorized to incur charges to the District credit card, with a maximum single charge of \$1,000 and allowable billing-period maximum charges totaling \$5,000.

- a. A receipt must be obtained for all District credit card purchases. Credit card purchases for which a detailed receipt is not provided must be reimbursed by the individual making the purchase.

VIII. **Reporting**

- a. All expenditures and investments, receipts and disbursements made must be compiled for presentation to the Board of Managers by the treasurer in a timely manner.
- b. Within 180 days of the end of the District's fiscal year (January 1 – December 31), the annual audit will be filed with the Board of Water and Soil Resources and the audit and Special District Financial Reporting Form will be filed with the Office of the State Auditor ~~within 120 days of the end of the District's fiscal year (January 1 – December 31).~~
- c. The administrator and treasurer will regularly review relevant records and documents for any of the following, and report to the treasurer (for the administrator) or the Board of Managers (for the treasurer) any of the following if found:

- i. Unusual or unexplained discrepancy between actual performance and anticipated results (costs in a general expense categories well beyond the budgeted amount);
  - ii. Receipts that do not match deposit slips;
  - iii. Disbursements to unknown and/or unapproved vendors;
  - iv. A single signature on a check or pre-signed blank checks;
  - v. Gaps in receipt or check numbers;
  - vi. Late financial reports;
  - vii. Disregard of internal control policies and procedures.
- IX. **Depositories and collateralization.** In accordance with state law, the District names an official depository or depositories at its January meeting each year (depository bank(s)). In the event the Board of Managers does not designate a depository in any particular year, the last-designated depository will continue in that capacity. Each depository bank provides the District with a proof of collateralization in accordance with state law (Minnesota Statutes section 118.03) for an amount equal to the amount on deposit at the close of the depository bank's banking day beyond the amount covered by federal insurance, if any. The collateral provided by each depository bank will be maintained in an account in the trust department of a bank or other financial institution not owned or controlled by the same (depository) bank or in a restricted account at a federal reserve bank.
- X. **Financial Assurances and Abandoned Property.** See District Policy for Management of Financial Assurances and Abandoned Property, ~~adopted November 21, 2012.~~
- XI. **Miscellaneous**
  - a. The District will not maintain a petty cash fund.
  - b. The District will not accept cash (currency) in payment of permit fees or financial assurances.
  - c. The District will not cash personal or third-party checks.
  - d. The administrator must ~~not fail to~~ insure District property against theft and casualty loss.



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

**Technology-Use Policy**  
**Adopted [DATE], 2021**

**General Information**

This policy defines the appropriate use of technology resources provided by Nine Mile Creek Watershed District to its managers and staff.<sup>4</sup> NMCWD provides technology resources for purposes of efficient and effective conduct of NMCWD business.

This policy also serves to protect the security and integrity of NMCWD's technology resources by providing the NMCWD managers and staff with necessary information and guidance on appropriate use of NMCWD-provided computers, mobile phones and associated technology resources, such as software and access and support services.

This policy applies to hardware (e.g., computers, including tablets and laptops; mobile telephones), software and services (e.g., wireless network connectivity, telephone service) provided to the NMCWD managers and staff at NMCWD expense (altogether, NMCWD Technology Resources). NMCWD does not cost share with or provide reimbursement to managers for use of personal technology resources, and such resources are not within the scope of the term NMCWD Technology Resources or this policy.

NMCWD Technology Resources are the property of NMCWD. NMCWD Technology Resources are provided exclusively for the use of NMCWD managers and staff to conduct NMCWD business, and may not be used by any other individual or organization.

Data related to NMCWD business are government data, as that term is defined in the Data Practices Act, Minnesota Statutes chapter 13. Data resident on or accessed through NMCWD Technology Resources may be subject to disclosure required by law, and NMCWD reserves the right to inspect without notice all data, emails, files, settings or other elements of NMCWD Technology Resources, including personal information resident on NMCWD Technology Resources.

**Personal Use**

Reasonable incidental personal use of NMCWD Technology Resources is allowed but should never preempt or interfere with NMCWD business, may not result in increased cost to NMCWD and may not compromise the security or integrity of NMCWD business or NMCWD Technology Resources. All use of NMCWD Technology Resources, including personal use, must adhere to provisions in this policy, including the following:

- Personal files should not be stored on NMCWD computers. "Personal files," as used herein, includes but is not limited to personal documents, spreadsheets, photos,

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<sup>4</sup> The provisions of this policy supplement, for NMCWD staff, the mobile-phone policy and protocols in the NMCWD Personnel Policy Manual.

media files (.mp4, .wav, .mov, or any other type file downloaded or created by copying a compact disk or digital video disk).

- NMCWD Technology Resources must not be used for commercial purposes, to conduct personal business or in pursuit of personal business interests, including for-profit and not-for-profit ventures, political activities or other uses deemed by the Board of managers to be inconsistent with NMCWD and related purposes. If there is any question about whether a use is appropriate, it should be forwarded to board of managers for a determination.

### **Hardware**

Persons to whom NMCWD Technology Resources are issued are responsible for the proper use and care of such equipment. Only NMCWD managers and staff may use NMCWD Technology Resources. Use of NMCWD Technology Resources by family members, friends or others is prohibited.

### **Software**

NMCWD will provide software required for conduct of NMCWD business. Additional, different software may not be downloaded or installed via or onto NMCWD Technology Resources without authorization of the board of managers. Updates for software installed and utilized by NMCWD and issued by the publisher should be installed. Unauthorized code, programs or software, equipment, downloads, or other resources may be removed by NMCWD from NMCWD Technology Resources at any time.

### **Email**

Manager and administrator emails (including those that are personal in nature) will be subject to determination as to whether they are governmental data for purposes of the Data Practices Act and may be subject to discovery in litigation. Managers and staff must adhere to these guidelines when accessing, using and sending email on or via NMCWD Technology Resources:

- Never transmit an email that you would not want other NMCWD officials, the NMCWD administrator or the media to read or publish (e.g., avoid gossip, personal information, swearing, etc.).
- Use particular discretion when corresponding by email on confidential communications (e.g., letters of reprimand, correspondence with counsel).
- Any email attachment or links from an unknown sender should not be downloaded or accessed. Junk or spam email should be deleted without accessing or opening.
- Do not use harassing language (including sexually harassing language) or any other remarks, including insensitive language or derogatory, offensive, or insulting comments or jokes.

### Data Retention

Electronic government data constituting official NMCWD records must be retained in accordance with the NMCWD Records Retention Schedule. NMCWD Technology Resources provided to the managers and administrator will not be automatically or routinely backed up. Data files may be temporarily stored on NMCWD Technology Resources in a manager's or the administrator's possession. But the official records of NMCWD will be maintained by the administrator on computer storage media physically located at the NMCWD business office and maintained by NMCWD.

### Personal Devices

NMCWD managers and staff may choose to use personal equipment to read or compose email or access NMCWD data. Managers and staff understand that using personal equipment to conduct NMCWD business may subject such personal devices to discovery in litigation or data requests, and agree to grant access to their personal devices when legally required or necessary. (Staff use of personal technology is subject to the relevant provisions of the NMCWD Personnel Policy Manual.)

**Nine Mile Creek Watershed District  
Policy on Permit Fee Reimbursement**

Adopted November 21, 2012

On receipt of written notice of the withdrawal of a permit application with a request for fee refund, the administrator will analyze the permitting record to date and determine the costs the District has incurred, including but not limited to the costs of consultant services, analysis of proposed activities and inspection of property, and the administrator will prepare a written accounting of expenses incurred;

When District costs are less than the fee paid by the applicant, the administrator will forward reimbursement of the difference as a payable item at the next regular meeting of the Board of Managers, except that under all circumstances the District will retain the \$10 permit fee authorized by Minnesota Statutes section 103D.345 to cover administrative costs.

When District costs exceed the fee paid by the applicant, the administrator will inform the applicant in writing that no reimbursement will be paid and forward to the applicant the accounting that is the basis for this determination, and the administrator will include the notice to the applicant and the accounting that is the basis for this determination to the Board of Managers at its next meeting.

Financial assurances provided by an applicant will be released in accordance with District Rule 12.0.

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## Appendix A

### Nine Mile Creek Watershed District Inventory of Not-Public Data on Individuals January 2021

This document describes categories of private or confidential data on individuals maintained by Nine Mile Creek Watershed District (see Minn. Stat. § 13.05 and Minn. Rules 1205.1200). This document is also part of NMCWD's efforts to ensure that not-public data on individuals are only accessible to individuals whose work assignment reasonably requires such access (see Minn. Stat. 13.05, subd. 5). In addition to the employees listed, NMCWD managers and legal counsel also will have access to not-public data as needed as part of specific assignments or under certain circumstances.

Please direct all questions about this inventory to the NMCWD Data Practices Compliance Official:

**Randy Anhorn**  
[ranhorn@ninemilecreek.org](mailto:ranhorn@ninemilecreek.org)  
[952-835-2078](tel:952-835-2078)

<u>Name of Record, File, Process, Form or Data Type</u>	<u>Description</u>	<u>Data Classification</u>	<u>Citation for Classification</u>	<u>Employee/Manager Access</u>
<u>Appeal data</u>	<u>Data maintained as a result of processing appeals of determinations about the accuracy and/or completeness of public and private data on individuals</u>	<u>Public/Private</u>	<u>Minn. Stat. § 13.03, subd. 4</u>	<u>Administrator</u>
<u>Applicant records</u>	<u>Completed assessments and results, related documentation, and application forms.</u>	<u>Public/Private</u>	<u>Minn. Stat. § 13.43</u>	<u>Administrator</u>
<u>Attorney Data</u>	<u>Data related to attorney work product or data protected attorney-client privilege</u>	<u>Private</u>	<u>Minn. Stat. § 13.393</u>	<u>Staff on as needed basis as part of specific work assignments.</u>
<u>Citizen Advisory Council member data</u>	<u>Data pertaining to advisory council applicants and appointees.</u>	<u>Public/Private Confidential</u>	<u>Minn. Stat. § 13.601</u>	<u>Administrator; other staff as needed.</u>
<u>Continuity of Operations</u>	<u>Personal home contact information used to ensure that an employee can be reached in the event of an emergency or other disruption affecting continuity of operation of NMCWD.</u>	<u>Private</u>	<u>Minn. Stat. § 13.43, subd. 17</u>	<u>Administrator</u>

<a href="#">Employee expense reports</a>	<a href="#">Expense reimbursement requests</a>	<a href="#">Public</a> <a href="#">Private</a>	<a href="#">Minn. Stat. § 13.43</a>	<a href="#">Administrator</a>
<a href="#">Employee personnel records</a>	<a href="#">Record of prior and current employment history. Data relating to hiring, assessments, payroll, pension and retirement, promotion, medical, family leave, grievances and discipline and related administrative personnel actions: drug-and-alcohol-testing and background-check results.</a>	<a href="#">Private, except state law specifies specific public data.</a>	<a href="#">Minn. Stat. § 13.43</a>	<a href="#">Administrator</a>
<a href="#">Motor vehicle data</a>	<a href="#">Information on license plate numbers, owners, and registration status of vehicles.</a>	<a href="#">Private</a>	<a href="#">Minn. Stat. § 168.346</a>	<a href="#">Administrator</a>
<a href="#">Personal contact and online account information</a>	<a href="#">Telephone number, email address and usernames and passwords collected, maintained, or received by NMCWD for notification purposes or as part of a subscription list for NMCWD's electronic periodic publications as requested by the individual.</a>	<a href="#">Private</a>	<a href="#">Minn. Stat. § 13.356</a>	<a href="#">Administrator; consultants as needed for specific projects and programs.</a>

<a href="#">Personnel data</a>	<a href="#">Data about employees, applicants, volunteers and independent contractors; data disclosed for the purpose of administration of the workers' compensation program as provided in chapter labor relations information</a>	<a href="#">Private/Confidential</a>	<a href="#">Minn. Stat. § 13.43 179A.03, subd. 4</a>	<a href="#">Administrator</a>
<a href="#">Response to data requests</a>	<a href="#">Data collected by the NMCWD Data Practices Compliance Official in responding to requests for data maintained by NMCWD.</a>	<a href="#">Public Private</a>	<a href="#">Various</a>	<a href="#">Administrator; staff as necessary.</a>
<a href="#">Security information</a>	<a href="#">Data that would substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury, if the data were released to the public</a>	<a href="#">Private</a>	<a href="#">Minn. Stat. § 13.37</a>	<a href="#">Administrator</a>
<a href="#">Social Security numbers</a>	<a href="#">Social Security numbers assigned to individuals</a>	<a href="#">Private</a>	<a href="#">Minn. Stat. § 13.355</a>	<a href="#">Administrator</a>
<a href="#">Unemployment compensation billings</a>	<a href="#">Records of billings for employee unemployment compensation</a>	<a href="#">Private</a>	<a href="#">Minn. Stat. § 13.43</a>	<a href="#">Administrator</a>



<a href="#">Workers compensation billings</a>	<a href="#">Records of billings for employees who receive workers compensation benefits</a>	<a href="#">Private</a>	<a href="#">Minn. Stat. § 13.43</a>	<a href="#">Administrator</a>
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