

**MICHIGAN'S  
CONSERVATION DISTRICT  
OPERATIONS MANUAL**

## PREFACE

Michigan's Conservation District Operations Manual has been developed to fulfill the need for directors and employees to have a handbook that focuses on major personnel issues, highlights Michigan's specific rules and regulations, provides guidance on district operations and planning, and is easy to use. Obviously not all personnel issues are addressed, and not all issues are discussed in depth.

This manual is NOT an employee handbook NOR a collection of model personnel policies. It is a "think book" to give background and directions on which directors and managers can write policies that fit their unique needs. In a few places, suggested wording for policies are provided, and some of the text can be easily converted to policy.

Every effort has been made to make this manual as useful as possible. This reference is a very basic resource for you as an employer. References and samples are provided to help you be more effective employers, comply with current laws, and provide a mutually beneficial working environment. Specific details and questions not answered in this handbook may be answered by some of the listed resources.

This handbook is available on the MDARD website (<https://www.michigan.gov/mdard/>), where it will be updated as needed. Many examples can be easily downloaded, customized, and used by your district. Only a few of the forms are the authoritative, official forms.

**VERY IMPORTANT NOTE:** This handbook is not legal advice. It has not been prepared by an attorney. However, its contents have been reviewed and edited by knowledgeable staff and partners. Please consult your own counsel or personnel management professional for specific questions. Additionally, when updates or changes to applicable laws occur, MDARD will provide further guidance.

**Feedback from this updated manual will be taken year-round by submitting requests to the Conservation Programs Unit secretary at [MDA-ESD-CDOps@michigan.gov](mailto:MDA-ESD-CDOps@michigan.gov). MDARD will update this manual annually or more frequently as needed.**

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# CHAPTER ONE

## INTRODUCTION TO MICHIGAN'S CONSERVATION DISTRICTS

### **Section 1: Conservation Districts and How They Operate**

A conservation district is a governmental subdivision of this state, and a public body - corporate and political, organized by the people within the district boundaries under provisions of the *Soil Conservation District Law*, which is part of the Natural Resources and Environmental Protection Act (NREPA) Public Act 451 of 1994, as amended. It is a locally controlled resource management agency, created by concerned landowners and administered by publicly elected boards of directors. It has since been amended and is now Public Act 463 of 1998 (hereafter referred to as CD Law, see Appendix A).

The locally elected five-member board of directors makes all decisions regarding the district's programs and activities. The directors employ a district manager (also referred to as executive director or district administrator) who oversees all day-to-day activities including the hiring and management of qualified staff necessary to implement the district's programs and carry out its mission. The guiding philosophy of conservation districts is that decisions on conservation issues should be made at the local level, by local people, with technical assistance provided by government.

### **Section 2: The Purpose of Conservation Districts**

Conservation districts are local providers of natural resource management services that help citizens implement conservation on their land and protect the environment for a cleaner, healthier, and economically stronger Michigan. The primary goal of a conservation district is to address the most critical local resource concerns. Common examples include:

- Reduce soil erosion and control sedimentation in waters of the state
- Encourage conversion of all mismanaged land to a productive use
- Encourage use of effective methods of surface and groundwater management
- Facilitate land use and land-use changes based on land capabilities and user goals
- Enhance and protect the basic ability of land to produce food and fiber
- Promote the maintenance of aesthetic values of land and its related resources
- Assist landowners in controlling non-point sources of pollution to surface water, groundwater, and air

### **Section 3: How Conservation Districts are Funded**

District funding may come from a variety of sources including state budget appropriations, federal, state, and local grant-funded programs, county and other local governmental appropriations, and locally initiated and conducted fundraising activities. Directors are responsible for developing funding sources for the conservation district

operations and for implementing programs that focus on solving natural resource issues. For more detailed information regarding funding sources for districts, refer to Chapter Sixteen.

#### **Section 4: How Conservation District Programs are Conducted**

To effectively carry out its programs, a conservation district should:

- Establish a mission statement (see Chapter Five)
- Conduct a conservation needs assessment (formerly referred to as the natural resource assessment), every five years, to identify the local community's top natural resource concerns (see Chapter Five)
- Develop a five-year long-range plan, based on feedback from the conservation needs assessment, that includes a calendar of actions and annual goals leading to the accomplishment of the long-range plan's overall goals (see Chapter Five)
- Develop an annual business plan (formerly the annual plan of work) each year based on the goals of the five-year long-range plan (see Chapter Five)
- Use directors, staff, technical personnel, cooperating agencies, and partner organizations in planning and implementing various phases of the district's programs

#### **Section 5: How Conservation District Programs and Services are Delivered**

A resident of the district typically receives assistance delivered through interaction with district staff resulting in a recommended solution to a specific problem or developing a conservation plan for the given scenario. Districts may offer financial assistance to residents through grants from local, state, and federal partners. To receive assistance:

- A resident requests assistance from the district
- District staff reviews the request, and assistance is assigned based on program relevance and technical skills of the staff and funding availability
- Technical personnel review problems with the resident and develop recommendations
- The resident, in cooperation with technicians, selects a preferred course of action
- The resident implements recommendations with assistance from the district, where needed and available
- Implementation of recommendations is voluntary on the part of the resident who bears most, or all the costs incurred

#### **Section 6: Conservation Districts in Michigan**

Currently, Michigan has 75 conservation districts, which are generally organized along county boundaries. They are represented by the Michigan Association of Conservation Districts (MACD) whose mission is "working to strengthen Michigan's Conservation Districts through leadership, information and representation." MACD supports its members at the state level by working with legislators, cooperating agencies, and

special interest groups that affect the care and management of Michigan's natural resources, especially on private lands. For more information regarding MACD, refer to Chapter Two or visit their website at [www.macd.org](http://www.macd.org).

Adherence to the following guidelines are encouraged to remain a viable conservation district in Michigan:

- Conduct a conservation needs assessment once every five years
- Develop or revise a five-year long-range plan every five years
- Develop or revise an annual business plan annually
- Pass an appropriations act at the beginning of each fiscal year
- Post and adhere to a regular schedule of board meetings
- Hold annual meetings and election of officers (see Chapter Seven)
- Post office hours at the district's entrance and on answering machines
- Conduct a biennial Generally Accepted Auditing Standards (GAAS) audit

### **Section 7: Conservation Districts in Other States**

Approximately 3,000 conservation districts operate throughout the United States. These entities of local government are responsible for conducting programs like those used in Michigan. They are represented by the National Association of Conservation Districts (NACD) whose mission is "to promote the wise and responsible use of natural resources for all lands by representing locally-led conservation districts and their associations through grassroots advocacy, education, and partnerships." As the national voice for all conservation districts, the NACD supports voluntary, incentive-driven natural resource conservation programs that benefit all citizens. For more information regarding the NACD, refer to Chapter Two or visit their website at [www.nacdnet.org](http://www.nacdnet.org).

## **CHAPTER TWO CONSERVATION DISTRICT PARTNERS**

### **Section 1: The Importance of Partnerships**

Conservation districts have the responsibility to address soil, water and related natural resource concerns within their respective district boundaries. With outside assistance, their ability to tackle local concerns is greatly enhanced through cooperation with other local, state and federal agencies to deliver educational, technical and financial assistance. By exploring opportunities to fully partner with organizations of similar interests, districts can more effectively initiate, market and deliver programs of merit to local landowners, public officials, and the general public.

Conservation districts collaborate with many partners, including the Michigan Conservation Partnership, which consists of the Michigan Association of Conservation Districts (MACD), Conservation District Employees of Michigan (CDEM), Michigan Department of Agriculture and Rural Development (MDARD), and Natural Resources Conservation Service (NRCS). This Partnership has a common commitment to protecting and enhancing Michigan's natural resources and conservation values by promoting, supporting, and advocating for voluntary private lands conservation. As a strong conservation partnership, conservation districts and these partners bring staff skills, strengths, energy, and passion together with a common goal of assistance, education, and advocacy.

Refer to Appendix B for a complete list of acronyms conservation districts will learn to recognize.

### **Section 2: Governmental Partners**

#### **USDA Natural Resources Conservation Service**

The United States Department of Agriculture (USDA) NRCS, established in 1933 in response to the Dust Bowl, is a federal agency that implements natural resource conservation practices on private lands. Initially focusing on soil erosion and other farm resource needs, NRCS has expanded to focus on many other private land conservation practices. NRCS employs District Conservationists (DC), soil conservationists, soil scientists, biologists, foresters, and engineers to assist with conservation planning and implementation. NRCS can also provide federal cost share funding for landowner projects through the Farm Bill. With the conservation districts guiding conservation priorities, this funding can be allocated to implement prioritized projects. NRCS DCs, many of whom work in co-located offices, work directly with their conservation district(s) to provide technical standards and guidance on conservation problems.

See Chapter Three for specifics on this partnership and expectations on roles of co-located vs. non-co-located Districts, respectively. For more information on

Michigan NRCS, visit their website at:  
<https://www.nrcs.usda.gov/wps/portal/nrcs/mi/home/>

### USDA Farm Service Agency

The USDA Farm Service Agency (FSA) is a federal agency that oversees several voluntary programs which address many farming and ranching-related conservation issues, including:

- Drinking water protection
- Reducing soil erosion
- Preserving and restoring forests, wetlands, and wildlife habitat
- Aiding farmers whose farms are damaged by natural disasters

FSA accomplishes these goals through several conservation programs that provide cost share funds to landowners. FSA assists the district boards with the establishment of the local work group (see Chapter Three), which develops & prioritizes resource issues for submission for funding under federal USDA programs.

For up-to-date information on FSA programs, visit their website at:  
<https://www.fsa.usda.gov/>

### Michigan Department of Agriculture and Rural Development

MDARD is comprised of six divisions that use a customer-driven, solution-oriented approach to cultivate and expand new economic opportunities for the food and agricultural sector; safeguard the public's food supply; inspect and enforce sound animal health practices; control and eradicate plant pests and diseases threatening the \$104.7 billion food and agriculture system; preserve the environment by which the farming community makes their living and feeds consumers; and protect consumers by enforcing laws relating to weights and measures. These six divisions include:

- Animal Industry
- Environmental Stewardship
- Pesticide and Plant Pest Management
- Agriculture Development
- Food and Dairy
- Laboratory

Conservation districts are the primary mechanism by which MDARD's Environmental Stewardship Division (ESD) delivers conservation programs to private landowners. MDARD assists conservation districts to operate in a manner consistent with applicable laws and provides program delivery support. Conservation districts annually deliver over \$6 million in MDARD programs, including the:

- Michigan Agriculture Environmental Assurance Program (MAEAP)
- Forestry Assistance Program (FAP)

- Conservation Technical Assistance Initiative (CTAI)
- Michigan Produce Safety (PS) Program
- Michigan Pheasant Restoration Initiative (PRI)

See Chapter Three for specifics on this partnership. For more information on MDARD visit their website at: <https://www.michigan.gov/mdard/>

Michigan Department of Environment, Great Lakes, and Energy

The Michigan Department of Environment, Great Lakes, and Energy’s (EGLE) mission is to protect Michigan’s environment and public health by managing air, water, land, and energy resources. EGLE is responsible for enforcement of many natural resource and environmental regulations including wetlands, surface water quality, and soil erosion and sedimentation control (SESC). EGLE is comprised of nine divisions:

- Air Quality
- Drinking Water and Environmental Health
- Materials Management
- Oil, Gas, and Minerals
- Remediation and Redevelopment
- Water Resources
- Environmental Support
- Finance
- Information Management

as well as the Offices of the Great Lakes, Climate and Energy, Clean Water Public Advocate, Environmental Justice Public Advocate, Legislative Affairs, and Public Information and the Environmental Investigation Section. EGLE’s Water Resources Division (WRD) administers the federal Section 319 Nonpoint Source Management Program which restores waters impaired by nonpoint source pollution and protects high quality waters from degradation. WRD awards Section 319 watershed program grants to conservation districts to conduct non-point source pollution control programs on a watershed basis.

EGLE's WRD also has oversight responsibility for the SESC program. Part 91 of the Natural Resources and Environmental Protection Act (NREPA) provides for the control of soil erosion and protects adjacent properties and the waters of the state from sedimentation. Counties are mandated by statute to administer and enforce Part 91 by appointing a county enforcing agency (CEA) to review soil erosion and sedimentation control plans, issue permits, and take enforcement actions when necessary to ensure compliance with Part 91; the CEA is often the local conservation district (see Chapter Thirteen).

For more information on EGLE, visit their website at: <https://www.michigan.gov/egle>

Michigan Department of Natural Resources

The Michigan Department of Natural Resources (MDNR) strives to protect natural and cultural resources, ensure sustainable recreation use and enjoyment, enable strong natural resource-based economies, improve and build strong relationships and partnerships, and foster effective business practices and good governance. MDNR administers grants that make communities healthier, safer, and more vibrant and enable local partners to promote projects that provide recreational opportunities, enhance wildlife habitat, and ensure public safety. MDNR is comprised of seven divisions committed to the conservation, protection, management, use, and enjoyment of the state's natural and cultural resources for current and future generations:

- Fisheries
- Law Enforcement
- Parks and Recreation
- Forest Resources
- Wildlife
- Finance and Operations
- Marketing and Outreach

as well as the Offices of Public Information and Legislative and Legal Affairs and the Michigan History Center.

For more information on MDNR, visit their website at: [www.michigan.gov/dnr](http://www.michigan.gov/dnr)

### County Drain Commissioners

County drain commissioners are county-level officials responsible for administering laws involving flood protection, stormwater management, and soil erosion. Duties performed may include establishing, improving, and maintaining county drains; reviewing construction stormwater drainage plans; maintaining lake levels; ensuring compliance with stormwater regulatory programs; and operating and maintaining sanitary sewer systems. Greater populated counties generally have an elected county drain commissioner whereas the county road commission is often the responsible authority in less populated counties. Conservation districts have often entered into agreements with their county drain commissioner relative to drain maintenance activities and inspections.

The Michigan Association of County Drain Commissioners (MACDC) is the professional association for county drain and water resources commissioners. MACDC is dedicated to the protection of the health, safety, and welfare of Michigan's citizens, while also seeking to protect and restore Michigan's water resources. They accomplish these goals by promoting collaboration, continuing education, and professional development.

For more information on MACDC, visit their website at: <https://macdc.us/>

### Conservation Districts

Conservation districts can be each other's most important partners for sharing programs, staff, equipment, and advertising and promotional campaigns. It is recommended that districts implement a *Memorandum of Understanding* (MOU) when working together (see Appendix C).

Several grant programs (MAEAP, FAP, Produce Safety, etc.) require technical staff to work across two or more conservation districts; it is important for all involved districts to understand their roles and responsibilities as either 'host districts' (administrating the program) and 'non-host districts' (included in the coverage area). ESD recommended roles and responsibilities include:

#### **Host Districts:**

- Daily supervision of grant employee
- Participate at meetings/trainings related to the grant program
- Ensure grant deliverables are met
- Accountability (budget, time, performance appraisal, appropriate expenditures, documentation of work completed)
- Establish salary and administrative budget
- Computer/internet/network support
- Promote and advertise availability of the program
- Administrative/clerical support for grant staff
- Participate in annual advisory committee meetings

#### **Non-Host Districts:**

- Participate in annual advisory committee meetings
- Promote and advertise availability of the program
- Provide office space, staffing, or equipment, as needed
- Share goals and achievements in board meetings

### **Section 3: Nonprofit Partners**

#### **Michigan Association of Conservation Districts**

MACD is a nonprofit organization managed by the 14 member State Council, which includes 10 conservation district board members (one from each of the 10 geographical areas in the state) and the Executive Committee (past president, president, vice president, and secretary-treasurer) whose voices shape the work of MACD. The activities and decisions of MACD are based on the organizational policies adopted by conservation district members. Member conservation districts participate in the policy development process by bringing forward issues and concerns important to the conservation of Michigan's natural resources. Policy proposals formulated at the local and regional levels are addressed at the MACD annual meeting/fall conference where members vote on resolutions that define policy and direct state level activities.

Resolutions with national implications are forwarded to the National Association of Conservation Districts (NACD, below) for deliberation and approval.

MACD advocates on behalf of districts with legislators, state and federal agencies, partners, and advocacy groups. They represent conservation district interests and advocate for district programs and natural resource conservation issues, providing a strong presence to build partnerships and understanding that grows into opportunity and programs for conservation districts. The State Council and MACD executive director lead this work and the multidisciplinary legislative committee and funding workgroup. MACD represents conservation district interests and is responsible for the state operational funding campaign and the monitoring of legislative bills to take positions based on MACD policy to assure districts are represented and protected. Additionally, many member benefits are available through MACD, including:

- Outreach program which shares district program highlights via statewide media organizations, the MACD website, and their Facebook page
- Business insurance program at competitive rates
- Human resource assistance
- QuickBooks assistance
- Tree sale marketing campaign
- Marketing and branding tools
- A.M. Leonard group buying discount
- Educational and networking events (members receive discounted registration)
- Association management system website with 'members only' benefits
- Google for nonprofits platform that includes many beneficial Google tools
- Utilization of MACD's 501(c)3 status for grant proposals
- One-on-one assistance with capacity building

Additionally, MACD administers Michigan Envirothon, a statewide environmental education program for high school students, established in 1994. Designed to stimulate interest in agriculture and natural resources, Envirothon teams work with local resource professionals to gain an understanding of natural resource subjects: agriculture, aquatic ecology, energy, forestry, soils/geology, wildlife, and a current environmental issue. Conservation districts participate in Envirothon to connect with youth and develop partnerships with educators and resource professionals in their communities.

For more information on MACD or Envirothon, visit their website at: [www.macd.org](http://www.macd.org)

### *Conservation District Employees of Michigan*

CDEM is a nonprofit organization comprised of a 10 member-elected board of directors, one from each MACD region, who serve as advocates for district employees at the state level, often serving on statewide committees, as well as national committees. Their mission is 'empowering and strengthening Michigan conservation district employees'; they do this by offering annual membership benefits that include:

- State sponsor of the NACD conservation poster contest for K-12 students
- Educational programs, service awards, and employee of the year awards provided at the MACD annual convention/fall conference
- Scholarships for professional training, education, and conference attendance
- Networking opportunities from regional meetings and communications

For more information on CDEM, visit their website at: <https://www.cdemployeesmi.org/>

### *National Association of Conservation Districts*

NACD, formed in 1946, is a nonprofit organization that nationally represents the 3,000 conservation districts and their board of directors. NACD's mission is to promote the wise and responsible use of natural resources for all lands by representing locally led conservation districts and their associations through grassroots advocacy, education, and partnerships. NACD was founded on the philosophy that conservation decisions should be made at the local level with technical and financial assistance from federal, state and local governments and the private sector. As the national voice for all conservation districts, NACD supports voluntary, incentive-driven natural resource conservation programs that benefit all citizens. NACD maintains relationships with organizations and government agencies; publishes information about districts; works with leaders in agriculture, conservation, environment, education, industry, and other fields; and provides services to its districts. NACD's programs and activities aim to advance conservation led by local districts and the millions of cooperating landowners and land managers they serve.

Through a cooperative agreement with NRCS, NACD awards funding to further enhance conservation district technical assistance (TA) across the nation with their TA grants. Additionally, NACD promotes district employee participation at the NRCS Conservation Planning Boot Camp, an intensive training course for technical employees that covers current conservation planning policy, procedures, and guidelines as outlined in the National Planning Procedure Handbook.

For more information on NACD, visit their website at: [www.nacdnet.org](http://www.nacdnet.org)

## **Section 4: Other Organizations**

### *Michigan State University Extension*

Michigan State University (MSU) Extension helps people improve their lives by bringing the vast knowledge and resources of MSU directly to individuals, communities and businesses. For more than 100 years, MSU Extension has helped grow Michigan's economy by equipping residents with the information they need to do their jobs better, raise healthy and safe families, build their communities, and empower children to dream of a successful future. MSU Extension staff are valuable resources for assistance with demonstration and education programs that promote an understanding of conservation

needs, problems, and solutions. MSU Extension is comprised of four administrative units called Extension Program Institutes, one for each of their statewide programs:

- Health and Nutrition
- Agriculture and Agribusiness
- Children and Youth
- Community, Food, and the Environment

For more information on MSU Extension, visit their website at: [www.msue.msu.edu](http://www.msue.msu.edu)

### Michigan State University AgBioResearch

The mission of MSU AgBioResearch (formerly the Agricultural Experiment Station) is to engage in innovative, multidisciplinary research that combines scientific expertise with practical experience to generate advancements in food, health and the environment. Their efforts contribute to economic prosperity, sustainability and quality of life in Michigan, the nation, and the world. With nearly 400 scientists, close partnerships and collaborations with MSU Extension and eight MSU colleges, federal and state agencies, commodity groups and stakeholders, and exceptional legislative support, AgBioResearch successfully implements five priority research areas:

- Resilient and profitable agriculture and natural resource systems
- Natural resources stewardship and ecosystem health
- Secure food, fiber and energy systems
- Food safety
- Nutrition and health

They maintain a balance between applied and basic research that relies heavily on their constituents input in identifying research priorities. Conservation districts cooperate with AgBioResearch to conduct on-farm and in-forest demonstrations and research and other technical workshops for landowners.

For more information on AgBioResearch, visit their website at: <https://www.canr.msu.edu/research/>

### Other Important Partners

Many districts have working agreements and/or MOUs with other local, state and federal agencies, which define specific roles of these agencies in district programs. These organizations can be a source of funding, resources, and program support to provide educational and technical assistance to both the private and public sector. These additional partners include, but are not limited to:

- USDA Forest Service - <https://www.fs.usda.gov/>
- Pheasants Forever - <https://www.pheasantsforever.org/>
- Ducks Unlimited - <https://www.ducks.org/>

- Trout Unlimited - <https://www.tu.org/trout-unlimited-3/>
- Upper Peninsula Sportsman's Alliance - <http://upperpeninsulasportsmensalliancewebsite.com/>
- Upper Peninsula Whitetails Association – [www.upwhitetails.com](http://www.upwhitetails.com)
- Michigan Tree Farm System - [www.treefarmssystem.org/michigan](http://www.treefarmssystem.org/michigan)
- Soil and Water Conservation Society - [www.swcs.org/](http://www.swcs.org/)
- Resource Conservation and Development (RC&D) Councils - [narcdc.org/](http://narcdc.org/)
- Michigan Farm Bureau - [www.michiganfarmbureau.com](http://www.michiganfarmbureau.com)
- Michigan United Conservation Clubs - <https://mucc.org/>
- United Way - [www.unitedway.org/local/united-states/michigan](http://www.unitedway.org/local/united-states/michigan)
- Quality Deer Management Association - [www.qdma.com/](http://www.qdma.com/)
- National Wild Turkey Federation - [www.nwtf.org/](http://www.nwtf.org/)
- Ruffed Grouse Society - [ruffedgrousesociety.org/](http://ruffedgrousesociety.org/)
- Tip of the Mitt Watershed Council - [www.watershedcouncil.org/](http://www.watershedcouncil.org/)
- Huron Pines - [huronpines.org/](http://huronpines.org/)
- Michigan Environmental Council - [www.environmentalcouncil.org/](http://www.environmentalcouncil.org/)
- Great Lakes Commission – [www.glc.org](http://www.glc.org)
- Michigan Invasive Species Coalition - [www.michiganinvasives.org/managementareas/](http://www.michiganinvasives.org/managementareas/)
- Various land conservancies, environmental groups, foundations, local and state governmental officials, universities, commodity groups, and businesses

## **Section 5. The Michigan Conservation Partnership**

Partnerships are the foundation of natural resources conservation on private lands. Often called the 'core four, conservation district key partners, which includes CDEM, MACD, MDARD, and NRCS, all value working together towards the conservation of natural resources. CDEM helps to empower and strengthen conservation district employees thereby strengthening conservation districts and conservation delivery. MACD helps to empower and strengthen conservation district directors who lead their districts to be the go-to organization for natural resource concerns. Providing technical and financial assistance to the districts, both MDARD and NRCS look to conservation districts to be the leading entity who accomplishes, guides, and recommends conservation practices at the local level. All four partners believe conservation decisions must be made at the local level by residents of the district. Through support of the five-member, locally elected board of directors and district staff, CDEM, MACD, MDARD and NRCS assist with the provision of voluntary, incentive-based programs that empower private landowners to implement conservation on their lands.

## **CHAPTER THREE WORKING PARTNERSHIPS AT THE LOCAL LEVEL**

### **Section 1. Conservation Districts and NRCS**

Locally led, voluntary conservation must be driven by natural resource conservation needs, rather than by programs. The USDA NRCS and conservation districts work on a common mission to address opportunities, concerns, and problems related to the use of natural resources. In partnership, NRCS and districts work with landowners and other stakeholders to develop comprehensive conservation plans. Below are the types of agreements NRCS may use to outline the terms of the partnership:

Originally, a Memorandum of Understanding (MOU) was used to secure cooperation between NRCS and conservation districts. This agreement allows a conservation district to use the technical assistance of NRCS. The unique and productive partnership between NRCS and conservation districts was carefully designed and continues to be a model for providing federal resources at the local level.

A Memorandum of Agreement (MOA) between NRCS and a conservation district establishes the collaborative relationship between the parties. Nothing in the MOA shall require either party to obligate or transfer funding, or anything of value. This may include, but is not limited to:

- Office space and equipment/supplies
- Vehicles and associated expenses (e.g., fuel, maintenance)
- Computers, software, and technical equipment

The transfer of funding or other resources of value requires the execution of a separate agreement. The appropriate agreements might include:

- Cooperative Agreement allows federal agencies to transfer a thing of value to the State, local or Tribal government, or other recipient to carry out a public purpose of support or stimulation authorized by law of the United States.
- Contribution Agreement is a unique statutory authority allowing NRCS to enter into an agreement with a non-federal entity that shares a mutual purpose in carrying out NRCS programs. All parties must contribute resources to the accomplishment of these objectives.
- Reimbursable Agreement allows federal agencies to provide specialized or technical services to State and local governments.

#### **Co-Located Offices**

Under an agreement, NRCS may provide office space, equipment and use of USDA vehicles. Each agreement is different, and the agreement will be outlined by the

NRCS District Conservationist (DC). In a co-located office, a district may be expected to:

- Assist NRCS in promoting USDA programs and participate in outreach and community education activities
- Advocate for a strong natural resource conservation program by keeping appropriate boards, landowners, legislators, county commissioners, and other key stakeholders apprised of conservation activities within the district
- Assemble and chair the local working group (see Section 4, below), as chartered under the State Technical Committee
- Develop the conservation needs assessment through broad-based community participation and in accordance with NRCS policy and procedures
- Recommend local natural resource priorities and criteria for NRCS conservation activities and programs based on the conservations needs assessment and public input
- Develop a district long-range plan and an annual business plan, with the incorporation of local and community inputs

NRCS assistance may include:

- Support conservation district outreach activities and keep districts informed of NRCS activities and programs, including technical and financial assistance opportunities
- Work cooperatively to solicit and leverage community recommendations to inform priorities that guide the delivery of NRCS conservation programs
- Respond to requests from the conservation district for technical guidance and assistance
- Partner with local and tribal agricultural, conservation, agency, and community groups where possible, to further organizational goals and objectives
- Provide, upon request, a summary of NRCS accomplishments to the conservation district for their annual report (see Chapter Eight) or other publications
- Attend conservation district board meetings, as often as possible
- Present all conservation plans and contracts to the board of directors for their consideration and signature

### Non-Co-located Offices

Although NRCS and a conservation district may not be co-located, they still have mutual goals related to natural resources. To enhance conservation delivery, NRCS and conservation districts may enter into an unfunded cooperative agreement. This type of agreement can provide timely and effective assistance to customers participating in USDA programs while addressing natural resource concerns. Through this agreement, districts and NRCS may agree to provide mutual access to office space, vehicles, equipment, and technology or other arrangements that support the terms of the agreement.

## **Section 2. Conservation Districts and MDARD**

CD Law (see Appendix A) provides for MDARD to be the state agency providing oversight of conservation districts in Michigan. The Environmental Stewardship Division's (ESD) Conservation Programs Unit (CPU), including the manager, secretary, Forestry Assistance Program (FAP) coordinator, and five, field-based Regional Coordinators (RCs), assist conservation districts to help build their capacity, hold proper elections, onboard and train new staff and directors, among others. The mission of the CPU team is to: empower conservation districts to sustain, protect, and enhance Michigan's natural resources. ESD staff assist and are responsible with:

- Coordinating and assisting conservation district programs, administrative procedures, operations, accountability systems, hiring and onboarding, and training
- Assuring a district is operated and maintained as an entity of government, adhering to all applicable laws (see Chapter Thirteen)
- Administering and reviewing MDARD-allocated grants to conservation districts
- Encouraging cooperation, collaboration, and sharing of successes between conservation districts and among their partners
- Build support for conservation districts from state and federal governmental units in the form of cooperation, financial assistance, or other means
- Ensure legal board of director elections and certify election results
- Keep a file of all legal documents required to maintain each district as an entity of government
- Consider and approve requests for conservation district boundary revisions
- Attend board, annual, and advisory committee meetings

Under this arrangement, the conservation district should:

- Submit a biennial audit report, an annual budget and appropriations act, and approved regular and special board meeting minutes to MDARD
- Notify MDARD of the time and place of the annual meeting and submit proper board of director election documents
- Upon request, submit other documents and information necessary to maintain the district as an entity of government

## **Section 3. The Local Work Group**

Local work groups are subcommittees of the NRCS State Technical Committee that provide recommendations to USDA on local and state natural resource priorities and criteria for conservation activities and programs. Conservation districts are responsible for assembling the local work group, setting the agenda, conducting the meeting, and relaying the priority areas and funding requests to NRCS or the State Technical Committee. If a district is unable or unwilling to chair the local work group, the NRCS District Conservationist is responsible for these duties. It is the responsibility of the local

work group to:

- Utilize the conservations needs assessment to help identify program funding needs and conservation practices (see Chapter Five, Section 3)
- Identify priority resource concerns, high priority areas needing assistance, and concerns that can be addressed by USDA programs
- Recommend local priority resource concerns and ranking criteria to the State Technical Committee
- Assist NRCS and the conservation district with public outreach and information efforts

The local work group should be a diverse group with agricultural and natural resource interests in the community. This includes agricultural producers, nonindustrial, private forest landowners, representatives from agricultural and environmental groups, and governmental agencies in the natural resources field. It should also include:

- NRCS District Conservationist
- Conservation district director(s)
- Representative from FSA
- State or locally elected officials
- Other federal, state, or tribal government representatives

The local work group should follow these procedures for holding their meetings:

- Meet once per year or more frequently if needed
- Post meeting information in the local newspaper with at least 14 days' notice to include the time, place, and agenda items for the meeting
- Provide an agenda to the group's members at least 14 days in advance
- Be open to the public and allow for public participation
- Be conducted as an open discussion among members
- Summarize the meeting and file a record at the local NRCS office

Local work group recommendations should be submitted to the State Technical Committee chairperson, NRCS DC, or both, within 14 calendar days of the meeting. Decisions made in response to these recommendations will be provided within 90 days. See the National Association of State Conservation Agencies (NASCA) website for an informative webinar on successful local workgroups: <http://www.nascanet.org/webinar-effective-local-workgroups/>. Further information about the conservation district's role in the local work group can be found in the NRCS directive: <https://directives.sc.egov.usda.gov/viewerFS.aspx?hid=27718>.

## **CHAPTER FOUR DISTRICT DIRECTOR'S RESPONSIBILITIES AND DUTIES**

### **Section 1. District Director Duties**

A conservation district is a governmental subdivision of the state with statutory powers and responsibilities; districts have the authority to address natural resource and conservation issues. As locally elected public officials, district directors are responsible for the operation and management of their district. Directors develop district policy, which is implemented by their staff. Primary duties performed by conservation district directors, either as individuals or as a member of a district board of directors, include:

- Prepare for district board meetings in advance by reading previous minutes and current financial statements
- Attend and engage in board meetings and district functions
- Arrange for capturing accurate records (board minutes) of all proceedings, resolutions, regulations, and orders issued or adopted (see Appendix D)
- Oversee the management of all district-owned funds, facilities, and equipment
- Establish and review district policies
- Read, understand, approve, and sign all conservation district grant agreements
- Oversee the preparation of an annual budget and appropriations act and maintenance of an approved bookkeeping system that reflects all income and expenditures
- Oversee the preparation of an annual financial statement and provide for a biennial audit
- Oversee district staff, including (see Chapter Ten):
  - Hire personnel based on district personnel policy
  - Review staff's performance yearly and provide administrative supervision
  - Draft and review annual work agreements
- Attend and engage in MACD State Council meetings, region meetings, and the summer and fall conferences
- Participate in training sessions conducted by MDARD and its partners
- Remain informed of legislation and policies of local, state, and federal government about conservation issues
- Maintain contact with local, state, and national public officials to keep them informed of the district's activities and conservation needs
- Raise awareness of the district's mission, products, and services
- Sponsor and actively participate in public education activities to stay informed of local natural resource conservation issues
- Develop a succession plan for recruiting qualified board members (see Chapter Twelve)

### **Section 2. District Director Officer Designations**

A majority of the directors (three) constitutes a quorum of the board, and the concurrence of a majority in any matter within their duties is required for the board's determination. A director is entitled to expenses, including traveling expenses necessarily incurred in the discharge of his or her duties. A director may be paid a per diem for time spent undertaking his or her duties as a director (CD Law - Section 9307 (5); Appendix A).

CD Law (Section 9307 (1); Appendix A) states: “a conservation district board shall consist of five directors” and “the board shall designate a chairperson annually”; this is the only board position that a district must designate. However, MDARD strongly recommends conservation district boards select officer designations for vice-chair, treasurer, and secretary. These offices have essential functions, and appointment to those offices spreads the duties over the entire board and not on one individual. Districts may combine these offices (e.g. secretary/treasurer) or leave the offices separate. The board designates the duties of each board position (CD Law Section 9307 (7); Appendix A). Typically, the duties and responsibilities are as follows:

#### *Duties of the Chair:*

- Conduct district meetings in compliance with the Open Meetings Act (OMA, see Chapter Thirteen)
- Preserve order and decorum during meetings (see Appendix E for Robert's Rules of Order for beginners)
- When necessary, sign all acts, contracts, and proceedings of the district
- Call for a vote on all properly presented motions
- Vote in case of a tie vote, roll call vote, or vote by ballot
- Receive input from other board members, district manager, NRCS DC, and others to assemble topics for the meeting agenda (preparation of the agenda is often designated to the district manager)
- Act as or appoint another director to be a liaison for the board and the district employees

#### *Duties of the Vice-Chair:*

- Become familiar with the responsibilities of the chairperson
- Preside as chairperson in their absence

#### *Duties of the Secretary:*

- Become familiar with the responsibilities of the chairperson
- Preside as chairperson in the absence of both the chairperson and vice-chair
- Review all written reports, including grant proposals
- Ensure all district meeting minutes are recorded accurately, in compliance with OMA, signed, and submitted to MDARD (see Appendix D)
- Oversee the preparation of the annual report (see Chapter Eight)

### Duties of the Treasurer:

- Review all financial reports prior to the monthly board meeting and be prepared to report to the board on the district's financial standing (see Appendix F for a list of accounting terms)
- Review and sign all bank statements (for separation of duties, bank statements can be mailed directly to the board treasurer) and bank reconciliation reports
- Review the district's bank account monthly (obtain access to online banking)
- Monitor and approve financial revenue by reviewing each deposit

### **Section 3: Associate Directors**

Conservation districts are encouraged to include associate directors onto their board of directors. Associate directors have all the privileges of being a director, except they cannot make or approve motions. Associate directors bring a great deal of knowledge and insight to the district and, through participation and attendance, understand the district well to become a board director when needed or interested.

### **Section 4. Conservation District Policy**

The board is entrusted with the authority to establish policies to govern the conservation district. Board policy establishes the parameters and guidelines for board directors, committees, and staff. All policy decisions should be made by majority vote of the board and recorded in meeting minutes. Adopted policies should be reviewed annually. The board should ensure policies have the following qualities:

1. Policies are thorough and complete, covering all likely scenarios and questions. Remember policies are:
  - Answers to questions before they are asked
  - Solutions to situations before they arise
  - Defined set of procedures to follow – before they are needed
  - The 'rules of the game' and define who must follow them
2. Policy language is clear, succinct, and understandable
3. Policies are fair and equitable
4. Policies are legal and current with the latest regulations and laws. They provide for privacy, security, and confidentiality when required or as prudent.

### Required List of District Policies:

The following is a list of subjects on which conservation districts **must** adopt policy:

- Freedom of Information Act (FOIA): as local units of government, districts are subject to FOIA requests and must adhere to all FOIA laws. A FOIA policy must be available on the district's main internet presence, often the district's website and/or Facebook page (see Chapter Thirteen)

- Credit Card: required by law even if a district has no credit card. An example is found in the CD Uniform Accounting Procedures Manual (found on MACD's website)
- Investment Practices: required by law even if a district has no investments (see Chapter Thirteen). An example is found in the CD Uniform Accounting Procedures Manual

*Recommended List of Employment and Board/District Operations Policies:*

The following, recommended by MDARD and MACD, is a list of subjects on which conservation districts **should** adopt policy (many of which can be rolled into one personnel policy; MACD has a personnel policy template for CDs to use):

- Anti-nepotism
- Anti-sexual harassment
- Board policies and procedures (attendance, authority of board members, subcommittees of the board, public comment)
- Bonding
- Capitalization
- CD inventory
- Check signing
- Classification of employment levels
- Conflict of interest (board and staff, see below)
- Disciplinary and grievance
- Emergency and safety procedures
- Employee conduct
- Employee performance evaluations
- Employer responsibility
- Equal opportunity employment
- Fundraising/gifts to and from the district
- Orientation program
- Overtime/compensatory time
- Partner relations
- Payment authorization
- Payroll procedures
- Personnel records
- Petty cash
- Privacy rights
- Provisionary status
- Purchasing
- Segregation of duties
- Smoke/drug free workspace
- Structure of the district (chain of command, delegation of duties to district manager)
- Travel reimbursement

- Vacation, leave, and benefits
- Vehicle use
- Telework/remote work
- Volunteer
- Whistleblower
- Work hours/office hours

*Conflict of Interest:*

Staff and board members should perform their official duties in a manner free from conflict of interest. The maintenance of unusually high standards of honesty, integrity, impartiality, and professional conduct by district employees and board directors is essential to ensure the proper performance of district business as well as to earn and keep public confidence in the district.

**Section IV: Bonding Policy**

All district directors and employees entrusted with funds or property shall obtain a minimum \$10,000 surety bond (see CD Law, Appendix A).

## **CHAPTER FIVE CONSERVATION DISTRICT PLANNING AND IMPLEMENTATION**

### **Section 1: Role of the Directors**

CD Law gives directors specific powers to address soil and water conservation needs within their community. To carry out these powers, directors have the responsibility to take a leadership role in the following tasks:

- Directors review the district's mission and vision periodically and demonstrate an understanding of the relationship between the mission and vision and all planning efforts
- Develop, approve, and oversee the implementation of a conservation needs assessment, five-year long-range plan, and annual business plan (see below)
- Monitor the progress towards reaching the goals established in these plans
- Ensure the preparation and distribution of an annual report (see Chapter Eight)
- Work with the NRCS District Conservationist (DC) to establish the direction of the district and to accomplish private lands conservation implementation goals (see Section 6) and also  
<https://directives.sc.gov.usda.gov/RollupViewer.aspx?hid=27712>

### **Section 2: Role of the District Manager**

While the board assists, approves, and oversees the planning and projects, a district manager (often called the executive director or administrator) is responsible for the daily operations of the district. Their responsibilities include:

- Develop and implement conservation projects
- Manage staff and review their program progress and accomplishments
- Write grants and secure funding, which may include acquiring match, hiring staff, and organizing volunteers
- Collaborate with partners to keep them informed of progress and availability of conservation programs
- Delegate tasks, utilize resources, and strategize the process of implementing conservation on the ground
- Collaborate with program technicians to promote their programs to interested farmers and landowners
- Assist with creation, coordination, and promotion of field days and outreach programs
- Review progress towards meeting district and program goals and keep board informed of this progress
- Build awareness in the community of the accomplishments of all district programs

### **Section 3: Conservation Needs Assessment**

A district shall conduct a conservation needs assessment (CNA) of their community once every five years (or more frequently) to determine local resource concerns. This assessment is a survey tool to prioritize the most important resource needs, as seen by the county residents, to help districts promote and implement voluntary conservation. The results of this assessment should guide the district in its role within the community (see example template and guidelines on the MACD website). The CNA is the baseline component of the broader five-year long-range plan. Those who have a stake in conservation should be contacted, this includes, but is not limited to:

- Natural resource professionals
- Farmers, forest owners, and other private landowners
- Lake associations and other land groups
- Urban residents
- Local governments and municipalities
- Local state representatives

### **Section 4: Five-Year Long-Range Plan**

After the conservation needs assessment results have been compiled and discussed, the district should develop a five-year long-range plan which:

- Summarizes the problems and concerns identified
- Identifies the top priorities identified by the board and to be addressed by the district
- Describes how the district will address these concerns (timeline, funding, staff roles, etc.)
- Evaluates the results

The five-year long-range plan should be reviewed when preparing the annual business plan and be updated every five years.

### **Section 5: Annual Business Plan**

An annual business plan (formerly the annual plan of work) shall be developed to meet the goals of the five-year long-range plan. It should list the goals, activities, funding sources, partners, and timeline that will be used to achieve those goals, for the upcoming year. It should be approved at the start of each fiscal year and referred to, as necessary, throughout the year, including when setting board meeting agendas. The annual business plan is a one-year effort to fulfill tasks and objectives of the five-year long-range plan.

### **Section 6: Role of NRCS in District Planning**

The NRCS DC may assist in developing the conservation needs assessment, five-year long-range plan, and annual business plan by providing technical advice and counsel to the district board in the following ways:

- Assisting with program development by providing resource inventory data and recommending ways to address resource concerns
- Keeping board informed of current NRCS programs and cost share opportunities for landowners
- Providing training to district staff and directors, as needed

### **Section 7: Implementation of the Long-Range and Annual Business Plans**

After prioritizing the natural resource concerns, conservation district staff and directors will need to determine how they will meet their goals. Many goals will be easy to achieve, while others will require additional funding sources, work with partners, and implementing new projects. This may not be an easy or quick process but, with dedication, trial and error, and strategic planning, a conservation district will move in the direction of being the trusted resource for local conservation solutions. The effectiveness of implemented practices should be evaluated to ensure that the planned goals and objectives were achieved. An evaluation can determine where the actual results differed from those anticipated; a difference can result in retracing one or more steps in the locally led conservation effort.

### **Section 8: Sharing Conservation District Impacts and Advocacy**

Sharing the conservation district accomplishments, through an annual report (see Chapter Eight), district newsletters, social media, district website, and regular reporting to county and township officials, etc., is an important advocacy tool to keep residents informed of work, programs, and outreach events conducted by the district but also allows for leveraging if the district seeks local support (via county appropriations or a millage). Sharing accomplishments also allows for leveraging funding requests from grantors and the sharing of impacts of planned goals to stakeholders (see Chapter 16).

## CHAPTER SIX REGULAR AND SPECIAL MEETINGS

### **Section 1: Effective Meetings and Board Committees**

Effective board meetings utilize a calendar to organize board action in advance of deadlines and are future orientated, with regular review/evaluation of business plan strategies and actions. The frequency of board meetings will depend on deadlines and planning needs but are often held monthly. The distribution of meeting materials a week in advance allows directors to come to meetings fully engaged and knowledgeable, resulting in productive and efficient board meetings. Two-member board committees can plan and accomplish goals or activities which, once shared back as recommendations to the full board, can free up board meeting time as decisions can be made promptly. Lastly, directors should openly recuse themselves from any decisions or activities that may conflict with their personal lives or endeavors.

### **Section 2: Open Meetings Act**

As a governmental subdivision of the State of Michigan, a conservation district must comply with the Open Meetings Act (OMA), Public Act 267 of 1976, as amended (see Chapter Thirteen). The OMA provides that:

- All regular and special meetings of a conservation district board of directors shall be 'open to the public and shall be held in a place available to the general public'
- Public notice of a meeting 'shall contain the name, address, and phone number of the body, and shall be posted at its principal office and other locations considered appropriate by the public body'
- Notice of a schedule of regular board meetings must be made within **10 days** after the board's first meeting of the calendar year or fiscal year
- If there is a change in schedule, within **three days** of the meeting in which the change is made, the public body must post a notice stating the new date(s), time(s), and place(s) of regular meetings
- Special meetings must be posted at least **18 hours** in advance and must include the date, time, and location of the special meeting
- Consideration should be given to the use of newspaper, radio and television stations, district websites, and social media as a means of further publicizing the district board of director meetings

### **Section 3: Monthly Meeting Schedule**

Districts often consider the timing of bank statements, vendor invoices, and other account payables when deciding the meeting schedule. Most districts choose to meet on a specified date each month (i.e. 5:00 p.m. on the second Wednesday of the month) often based on director and staff commitments, seasonal growing and harvesting schedules, and other business considerations.

## **Section 4: District Board Meeting Agendas**

A properly prepared agenda is a tool for the board chair to run a productive, time managed meeting. The board chair and/or district manager should put the agenda together and submit it to the full board for review and additions prior to the scheduled meeting. An agenda often contains:

1. Roll call
2. Public comment
3. Staff and partner reports
4. Treasurer's report
5. New business for discussion
6. Old business for further discussion
7. Adjournment
8. Time, date, and place of the next meeting

## **Section 5: Public Comment**

The OMA provides provisions for the public to address the district board during the board meeting. The OMA states, 'a person shall be permitted to address a meeting of a public body under rules established and recorded by the public body'. The district board should establish a board meeting policy that regulates the conditions under which the public may address the board. A policy can include such conditions as:

- The length of time any one person may be permitted to speak
- The place on the agenda set aside for public address
- A requirement that persons desiring to address the public body identify themselves

It is important to note, the OMA has not determined that boards must decide on issues brought forth during public comment, only that the public be allowed time to comment during a public meeting.

## **Section 6: Closed Session**

The OMA does provide provisions for a public body to meet in a closed session. However, a conservation district may only meet in closed sessions for the following purposes:

1. To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic evaluation of a public officer, employee, staff member, or individual agent, **if the named person requests a closed hearing**. A person requesting a closed hearing may rescind the request at any time, in which case the matter at issue shall be considered after the rescission only in open sessions.

2. For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement when either negotiating party requests a closed hearing.
3. To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.
4. To consult with its attorney regarding trial or settlement strategy in connection with pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.
5. To review the specific contents of an application for employment or appointment to a public office when the candidate requests that the application remain confidential. However, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting pursuant to OMA.

A two-thirds roll call vote is required for the district board to hold a closed session except for reasons one and two listed above. The roll call vote and the purpose(s) for entering a closed session must be recorded in the meeting minutes at which the vote is taken. A designated director of the board will keep a separate set of minutes for the closed session. These minutes may be destroyed one year and one day after approval of the minutes of the regular meeting at which the closed session was approved. Minutes of closed meetings do not need to be available for public inspection (FOIA) and would only need to be disclosed if required by civil action.

*No decisions can be made during a closed session; a board will need to return to the regular meeting and make board motions during the open meeting.*

### **Section 7: District Board Meeting Minutes**

The minutes of a conservation district board meeting are an official record of business. The OMA requires that conservation districts record the proceedings of all meetings. By law, minutes must (see Appendix D for sample minutes):

- Contain time, date, and place of the meeting
- State directors present and absent (and note time of late arrivals and early departures)
- Contain any decisions made at a meeting open to the public
- If a closed meeting, the reason a closed session was held
- Contain all roll call votes taken
- Be available to the public at no more than the cost of printing and copying
- Draft minutes must be available to the public within 8 business days after the meeting
- Minutes must be approved at the next meeting and must be available to the public within 5 business days after the approval meeting

- Corrections to board minutes must be made no later than the next meeting to which the minutes refer; corrected minutes must be available no later than the next meeting after the correction was made and must show both the original entry and the correction

Some basic guidelines in writing minutes include the following:

- Note if it is a special or regular meeting
- Write in the third person and contain what is done and not what is said
- All motions, whether adopted or lost, including who made the motion (the supporter need not be included)
- Summary of committee reports, unless the committee's written report is included
- All appointments and assignments
- Approval of minutes signed by designated board director
- Approval of payment of bills and acceptance of treasurer's report (see the Michigan Conservation District Uniform Accounting Procedure Manual and Chapter Nine for information about treasurer's reports)
- Time of adjournment (a motion to adjourn is not necessary)

### **Section 8: Regular vs. Special Meetings**

Regular meetings are generally conducted to complete a standard order of business while special meetings are held when the board needs to address business that requires urgent attention and cannot wait until the next scheduled, regular meeting. Special meetings are also held when a business matter is important enough that it needs to be the exclusive reason for the entire meeting. As infrequent meetings, special meetings must be posted at least 18 hours in advance and must include the date, time, and location of the special meeting.

## **CHAPTER SEVEN CONSERVATION DISTRICT ELECTIONS**

### **Section 1: Conducting District Director Elections**

Conservation districts are required to hold an annual meeting for board of director election purposes; during years where no seats are up for election, districts are still encouraged to hold an annual meeting in the absence of an election. An annual meeting allows districts to thank their constituents, report accomplishments, share upcoming plans, engage volunteers, recruit associate or new directors, and recognize the contributions by their partners. Districts can change or adjust the date of their annual meeting and election; however, director terms cannot be shortened to accommodate an annual meeting date. A district can choose to hold their annual meeting in conjunction with an open house or dinner or an event with entertainment or a guest speaker. A director shall hold office until a successor has been elected, has taken and notarized an oath of office, and MDARD has certified the election. Districts are encouraged to maintain a full board of five (5) directors, elected or appointed.

Conservation district director elections must follow the procedures below (election documents can be found on MDARD's website and in Appendix G):

1. Candidates interested in being on the ballot must submit a nominating petition, signed by a minimum of five residents of the conservation district and signed by the candidate or circulator, at least 60 calendar days prior to the annual meeting date (see Section 3 below).
2. A notice of the annual meeting must be published in the official newspaper of record for the area in which the district is located at least 45 calendar days prior to the date of the annual meeting. This notice shall include the date, time, and location of the annual meeting, an agenda of items to be considered at the meeting, and a list of all candidates for directors of the conservation district.
3. Absentee ballots must be available at the conservation district office 45 calendar days prior to the annual meeting date or when the annual meeting notice is published, whichever happens first. Collected absentee ballots shall be sealed and secured at the district until the annual meeting. Residents may vote in person, during business hours, and via the mail (see Sections 4 and 11).
4. Hold an annual meeting and election of directors following an approved method that includes counting all ballots in a public setting, for transparency, and adhering to the Open Meetings Act. Districts should assign non-district affiliated volunteers to assist with counting ballots (polling officials).
5. Newly elected directors shall submit notarized oaths of office to the district promptly after the election. A newly elected director cannot count towards a quorum, make motions, or vote until their notarized oath of office has been submitted to the district. The board should recognize receipt of the notarized oath(s) of office during the next board meeting within the meeting minutes.

6. Conservation districts must submit copies of the following election documents to their MDARD Regional Coordinator for their election to be certified:
  - a. Completed and signed nominating petition(s) (see #1 above)
  - b. Published newspaper notice which meets all requirements (see #2 above)
  - c. Certificate of election results
- MDARD is required by law to certify director elections within 90 calendar days of the annual meeting. Because newly elected directors cannot motion or vote until MDARD certifies the election, districts are encouraged to submit their election documents promptly
- Additionally, districts must submit their oath(s) of office and certificate of election results to the ESD grants mailbox (MDA-ESD-Grants@michigan.gov, with a cc to their Regional Coordinator)

## **Section 2: Board of Director Term Lengths and Vacancies**

The standard term length for a conservation district director is four (4) years, with no term limits. If a director leaves his/her term early, a newly elected director will complete the remainder of said term. These terms may range from one (1) year to three (3) years.

If a vacancy occurs before the next annual meeting, vacancies may be filled by appointment by the board of directors. Newly appointed directors shall submit notarized oaths of office to the district promptly after being appointed. A newly appointed director cannot count towards a quorum, make motions, or vote until their notarized oath of office has been submitted to the district. The board should recognize receipt of the notarized oath(s) of office during the next board meeting within the meeting minutes. At the next annual meeting, appointed directors can run for the remainder of the term that was vacated following the standard election process identified above in Section 1.

## **Section 3: Board of Director Candidates**

At least 60 calendar days prior to the district's annual meeting date, candidates who are residents of the district must file a nominating petition to run for a conservation district director position. If the 60th day falls on a weekend, the board of directors may elect to use the closest business day prior to the 60<sup>th</sup> day as the deadline to submit petitions, but cannot elect to accept petitions received less than 60 calendar days prior to the election. To avoid any confusion, the district should clearly state the due date, both verbally and in written form on the petition, as they are handed out. It is recommended that districts date stamp when petitions are received.

- A candidate may only run for **one** board term in an election. The length of term for which each candidate declares is to be clearly stated on the cover of the petition circulated by that candidate.
- The petition must be signed by five (5) residents of the conservation district. A resident is defined as an individual, at least 18 years of age, who lives

within the district boundary and can verify their current address by one (1) piece of identification which proves residency.

- After circulation, the petition must be signed by the candidate or circulator and dated at least 60 days prior to the annual meeting date.
- Districts must verify that the petition(s) was signed by eligible county residents.

#### **Section 4: Voting Qualifications**

District residents, at least 18 years of age, who live within the district boundary and can verify their current address and age by one (1) piece of identification which proves residency, may vote in a district election by filling out a voter registration and qualification form and voting **one** of two ways:

1. **Absentee ballot.** Districts must make an absentee ballot available at the district office 45 calendar days prior to the annual meeting date or when the annual meeting notice is published, whichever happens first. Individuals who wish to vote by absentee ballot may do so any time after publication of the notice and prior to the annual meeting and election date by requesting a ballot either in person during business hours or by mail\*\*. *Requests for absentee ballots shall be made on an individual basis only.*
  - In person absentee voters will receive a voter registration and qualification form which will be exchanged for a ballot once eligibility has been determined.
  - If voters request an absentee ballot by mail, districts shall use the following method to determine proof of residency and age and accept ballots by mailing each absentee voter the following:
    - a. One voter registration and qualification form, one absentee ballot, one plain envelope, and one pre-addressed envelope. Requestor will place ballot in the sealed, plain envelope. This sealed envelope, the completed voter registration and qualification form, and a copy of the voter's official ID shall be mailed back to the district in the provided pre-addressed envelope.
  - The district must verify an absentee voter is a county resident by checking an official ID or by contacting the county clerk for assistance with determination.
  - Absentee ballots shall be kept in a secured, locked container at the district until the annual meeting. For in person voting, the voter may place their absentee ballot in a sealed envelope or place their ballot in the locked container themselves. To ensure anonymity, voter registration and qualification forms should be kept separate. A record should be retained of those individuals who have voted by absentee ballot; annual meeting polling officials should review this record to ensure residents have not voted both absentee and in person at the annual meeting.
  - It is important for districts to state a deadline for residents to vote absentee through the mail to ensure these ballots are received prior to the annual meeting. If absentee ballots are received after the annual meeting, they

should be retained, unopened, with the rest of the election ballots for six months (see Section 9).

2. **At the annual meeting.** During the annual meeting and election, voters will receive a voter registration and qualification form which will be exchanged for a ballot. *This must be done on a one for one basis.*

Nominations from the floor, write-in voting, and voting by acclamation is unlawful and strictly disallowed.

**\*\*Note:** Districts may choose to allow for absentee voting by phone and/or email but the district **MUST** have a procedure identified within an approved policy and strictly adhere to the procedure.

### **Section 5: Election Ballots**

Applicable candidates shall be listed on both the absentee ballot and regular ballot according to the length of term each is seeking. Candidates being considered for four (4) year terms will be listed together. The same procedure holds for candidates seeking to fill the remainder of a term that was vacated by a former director whether there are three (3), two (2), or one (1) years left on the term(s). There shall be written instructions on the ballot to inform the voters as to how many votes for each term they may cast.

### **Section 6: Procedure for Conducting an Election at the Annual Meeting**

1. A minimum of two polling officials, preferably not affiliated with the district, should conduct the election process.
2. Distribute voter registration and qualification cards to eligible voters once the election is scheduled to begin.
3. The chairperson or designee at the election may choose to explain who may vote by reading the following (which shall also be included on the voter registration and qualification form):

*“In accordance with the laws of the State of Michigan, the following are eligible to vote in a conservation district election: All residents of the district who are of legal age and have demonstrated residency by one (1) piece of identification, and who have not previously voted in this election, may vote”.*

4. Polling officials must confirm voter registration and qualification cards meet voting eligibility requirements for age and residency. If a voter satisfies the requirements and is determined qualified, the polling official accepts one (1) completed voter registration and qualification card in exchange for one (1) voting ballot, again on a one for one basis.
5. Polling officials shall collect, count, and record ballots in view of the public (see Section 7, below).
6. Polling officials or designee should announce the election results at the annual meeting.

## **Section 7: Procedure for Counting Ballots at an Election**

1. All ballots, absentee and regular, should be counted by polling officials in sight of the group assembled.
2. All voter registration and qualification cards should be sorted alphabetically and checked to prevent any person(s) from voting both by absentee ballot and in person at the annual meeting.
3. A polling officer reads aloud the names of the candidates voted for, by taking the ballots out one at a time. The other polling officer(s) keeps the number of votes tallied as they are read aloud. The counting of votes is continued without adjournment until all have been counted.
4. No ballot will be rejected because specific directions were not followed if, in the majority opinion of the polling board, the intention of the voter is clear.
5. The candidate(s) receiving the most votes shall be declared elected. In the event of a tie vote, the election results are decided by lot. Examples include having a disinterested person draw the winner's name from a hat, flipping a coin, or having the candidates cut a deck of a cards with person in possession of the high card declared the winner. Whenever such action is necessary, the method for deciding the tie vote and the name of the winning candidate is recorded on the certificate of election results.
6. A certificate of election results form shall be completed and signed by polling officials.

## **Section 8: Certifying Election Results**

Following the annual meeting, MDARD shall review final election documentation to determine eligibility for certification and will notify the district of its determination on election certification within 90 calendar days after the election. If the department does not certify the director election, the board shall call a special election. The procedures for the special election shall be the same as those for an election at the annual meeting. However, if the board received notification that the department would not be able to certify the director elections from a special election at least 120 calendar days before the next annual meeting, the vacancies shall be filled by appointment until the next annual meeting.

## **Section 9: Retention and Disposal Schedule for the Election**

Regarding the annual meeting & election process, the following retention and disposal schedule is required:

1. The following documents must be retained by the district for at least six (6) months, after which they may be destroyed:
  - a. Nominating petition(s)
  - b. Newspaper notice of annual meeting and election of directors
  - c. Voter registration and qualification cards

- d. Election ballots – these should be sealed. During this six-month period, the district must surrender the ballots and voter registration and qualification cards *unopened* to MDARD ESD staff, upon request. Any person, being of the opinion that the vote of election has not been correctly counted or has been conducted in such a manner as to render the election invalid, may request ESD staff to open and recount ballots.
2. The following documents must be retained by the district for at least five (5) years, after which they may be destroyed:
  - a. Director oath(s) of office
3. The following documents must be retained by the district permanently:
  - a. Certificate of election results
  - b. Email from MDARD certifying election results

### **Section 10: Additional Guidance when Conducting Director Elections**

As you prepare for your conservation district election, please consider the following:

- It will be important to match the number of voter registration and qualification cards to the number of absentee ballots, as well as ballots cast at the annual meeting. Develop a registration list for those who vote prior to the election. Polling officials can use it during the annual meeting election to assure residents have not voted twice. Note: at the annual meeting, polling officials may find it helpful to arrange all voter registrations in alphabetical order.
- Prior to the election, put the sealed envelopes containing completed absentee ballots and voter registration and qualification cards in a secured, locked box and secure at the district office. This is important in order to maintain the integrity of the election process and determine chain of custody. It will help to guard against inadvertent or intentional tampering with the ballots.
- Promote the annual meeting and election and remind the voting public to participate in the upcoming election. Encourage interested and qualified residents to consider joining the board by submitting a completed nominating petition.
- Make sure all staff in the district office are aware of the election procedure. They may need to assist a resident who comes into or calls the office to request an absentee ballot.
- Remember, it is the board directors' responsibility to continually recruit candidates for director elections.
- Annual meetings do not have to be a business meeting, meaning they do not need to be called to order or adjourned, a quorum does not need to be present, and minutes do not need to be taken, unless official business is to be conducted as part of the event.

#### **Timeline for the Annual Meeting:**

1. At least 120 calendar days ahead:
  - a. Determine expiring director terms and begin recruiting new candidates

2. At least 90 calendar days ahead:
  - a. Set the date for the meeting
  - b. Select program and contact the speaker - determine speaker fee
  - c. Select and reserve the meeting location
  - d. Decide on a menu - determine cost for the meal and follow the budget
  - e. Select district award winners (i.e., Conservationist of the Year, etc.)
  - f. Order/create necessary awards
  - g. Request content from staff and partners for the annual report (see Chapter Eight)
  - h. Determine due date for petitions
  - i. Develop petition forms and distribute
3. At least 60 calendar days ahead:
  - a. Accept and date stamp petitions from interested candidates
  - b. Solicit door prizes and/or silent auction items, if applicable
4. At least 45 calendar days ahead:
  - a. Notice of the annual meeting must be published in the official newspaper of record and include all required information
  - b. Prepare absentee ballots and voter registration and qualification cards
  - c. Prepare self-addressed return envelopes for absentee voters
5. At least 30 calendar days ahead:
  - a. Prepare voter ballots
  - b. Finalize annual report and send to the printer
  - c. Send out invitations (make sure to include cooperators and partners, county board of commissioners, township and city officials, legislators, and others)
6. At least 2 weeks ahead:
  - a. Mail out annual report
  - b. Make final arrangements with speaker (audiovisuals, room setup, etc.)
  - c. Write special newspaper article
  - d. Invite local news media

*After the Annual Meeting:*

1. For election results:
  - a. Submit all required election documents (Section 1, #6 above) to Regional Coordinator for final approval
  - b. Submit the notarized oath(s) of office and certificate of election results to the grants mailbox and Regional Coordinator
  - c. Send a list of the names and titles of the new board of directors to MDARD within 30 calendar days of the board reorganization meeting following the election. Remember, at a minimum, a board chair must be designated annually
2. Evaluate the annual meeting:
  - a. Did the meeting start and end on time?
  - b. Did all the directors participate in the meeting?
  - c. Were individual reports brief and to the point?

- d. Was a legal election held?
- e. What improvements can be made to director recruitment to meet the needs of the district?

## CHAPTER EIGHT ANNUAL MEETING REPORT

### **Section I: Topics for an Annual Report**

An annual report can serve as a useful document that highlights conservation district programs and accomplishments over the year, which can then be shared with the public. It can also reflect the goals outlined in a districts annual business plan. The following topics can serve as a guide to prepare an annual report, although additional topics and layouts make each report unique. While the annual report can be created any time during the year, it's recommended to share it during a districts annual meeting, place a copy on the district's website, and to offer copies in the district office.

#### *History of the District*

This can include a brief discussion on the original establishment of the district that includes historical natural resource concerns and/or illustrations of early land use problems.

#### *Facts about the District*

Include a picture of the current board of directors, with information on their backgrounds, details about the district staff and their areas of focus, and the district address/phone number/office hours.

#### *Natural Resource Concerns*

Provide a listing of the current natural resource concerns and how they will be addressed, as outlined in the district's conservation needs assessment. Also include the district's major accomplishments during the past year, along with pictures.

#### *Implementation of Conservation Practices*

Describe on the ground practices that were established over the year, with pictures or even an interview/quote by a landowner. This could also include promotion of cost share funds and other resources currently available for landowners.

#### *Special Activities / Events*

Highlight any tours, meetings, or demonstrations sponsored by the district. This is also a great opportunity to list upcoming workshops or a tree sale.

#### *Agency Cooperation and Partnerships*

Describe partnerships from the year and what accomplishments came of them,

including on the ground projects or successful grant applications.

*District Operating Budget*

Provide a condensed operating budget for the year with revenue and expenses.

*Award Winners*

Share a picture story of the district award recipient(s) and why the district values them as a cooperator.

*District Director Candidates*

Provide a background and picture of each of the candidates to help voters make decisions in selecting the new district leadership.

## **CHAPTER NINE CONSERVATION DISTRICT ACCOUNTING PROCEDURES**

### **Section 1: The Uniform Budgeting and Accounting Act**

The uniform chart of accounts for counties and local units of government in Michigan has been developed under the authority of Act 2, Public Acts of 1968, as amended (MCL 141.421), and Act 71, Public Acts of 1919, as amended (MCL 21.41). The purpose of the Uniform Budgeting and Accounting Act (see Chapter Thirteen) is to require all local units of government in Michigan to: 1) adopt balanced budgets and 2) establish responsibilities which define the procedure for the preparation, adoption, and maintenance of the budget, including the adoption of the annual appropriations act. The appropriations act indicates that the legislative body (the board) shall adopt the budget by passing a general appropriations act authorizing the spending of district funds.

In local units of government that do not normally adopt a general appropriations act, this can be accomplished by inclusion of wording in the budget adoption resolution indicating that the resolution is the general appropriations act.

### **Section 2: The Uniform Accounting Procedures Manual**

Conservation districts must adhere to the Michigan Conservation District Uniform Accounting Procedures Manual, which can be found on MACD's website. This document outlines basic requirements for recordkeeping and financial procedures required for Michigan conservation districts, including a standardized chart of accounts and the use of QuickBooks as the accounting software program for tracking revenue and expenses.

### **Section 3: The Budget Process**

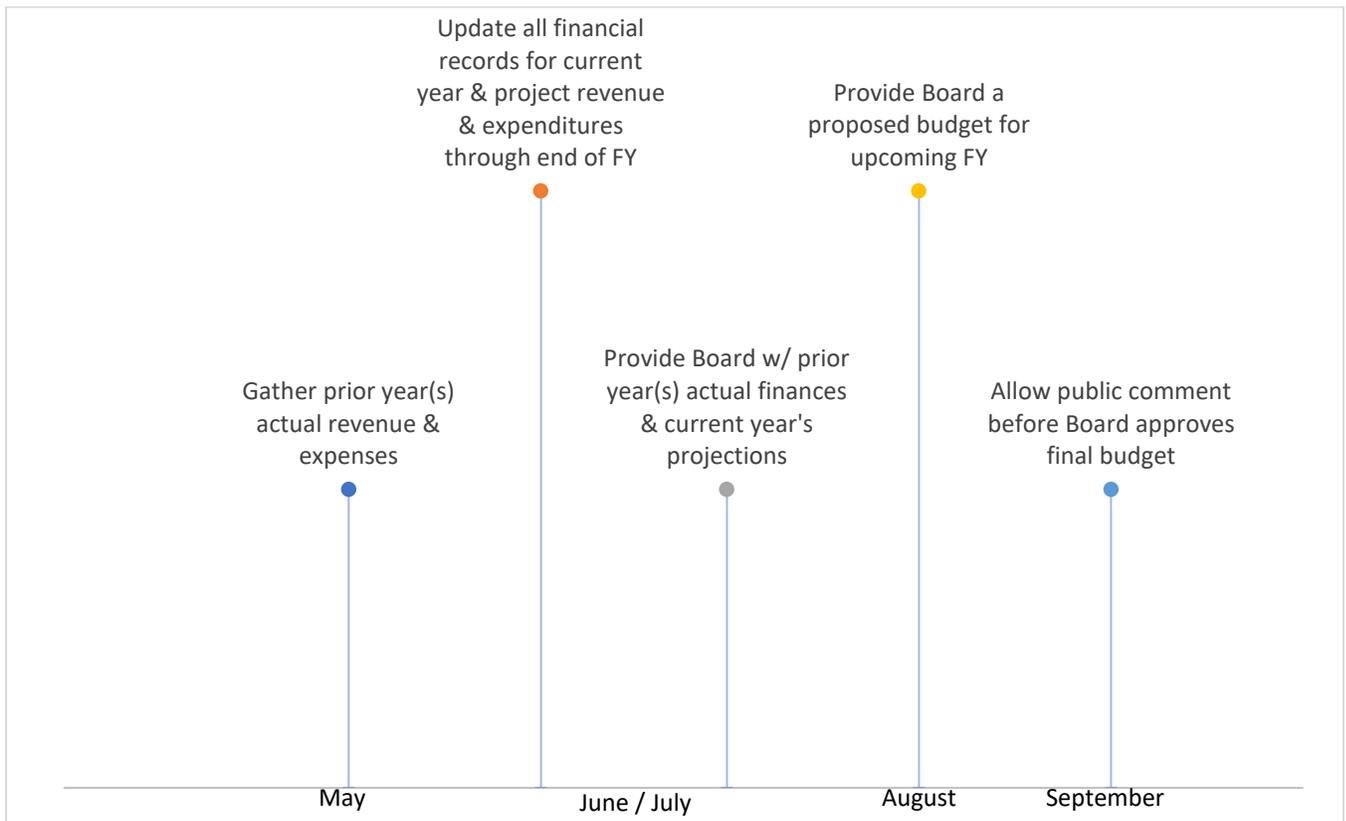
Conservation districts must have an approved budget and appropriations act in place by the beginning of their fiscal year (FY), generally October 1<sup>st</sup>. Typically, districts project out the current years data, amend the current budget, and provide a proposed budget to the board during the August board meeting. To enact a new FY budget, districts must follow the Appropriations Act process outlined in the Uniform Accounting Procedures Manual.

Amendments are necessary if a deviation from the current budget is likely to occur due to increased expense or reduced revenue and must be approved by the board prior to the expenditure being made. Amendments should occur throughout the year as deviations occur. However, it is very common for a final appropriations amendment to be made during the September board meeting. Amendments will change the projected beginning and ending balances of the upcoming fiscal year and should be accounted for in the upcoming FY appropriations act.

At least six days before the September budget hearing, the district must place a newspaper ad to invite the public to comment on the proposed budget prior to final passage by the board (this does not have to be a legal notice). During this time, the proposed budget should be available at the district office for public viewing. Sample language for the newspaper ad includes:

*“The proposed budget of the XYZ Conservation District for the fiscal year beginning October 1, 2019, will be presented to the XYZ District Board for final approval at the regular monthly meeting at TIME a.m./p.m., on September ??, 2019. The public is invited to comment on the proposed budget at this time. Copies of the proposed budget are available at the XYZ District Office, located at CD OFFICE ADDRESS/STATE/ZIP”.*

The board should reserve part of their monthly meeting time to allow the public to comment on the proposed budget. After public comment has been heard, the board will vote to approve the proposed budget, which becomes the general *appropriations act* after approval. Below is a proposed timeline for the budget process:



After board approval, districts should submit their approved budget to [MDA-ESD-Grants@michigan.gov](mailto:MDA-ESD-Grants@michigan.gov) with a copy to their MDARD Regional Coordinator.

**Section 4: Basic Accounting Filing System**

As local units of government managing public funds, personnel policy A recommended

filing system includes:

1. Expense Records: Kept in files labeled monthly w/ records kept sequentially.
2. Income Records: Kept with bank statements, bank reconciliations and deposit forms in sequential order.
3. Payroll files: By employee and separate from all other types of accounting records, *secured under lock and key*.
4. Tax Filings/Reports: All forms must be signed by board treasurer. Kept separate in payroll files by form.
5. Contracts, Grants & Appropriations, etc.: Labeled appropriately. At the end of the fiscal year or grant cycle, move records into storage (keep accessible for audit) and set up a new set of files for the next fiscal year / grant cycle.

All revenue received by districts must have a cash receipt that clearly indicates the name of the payer, the amount paid, the purpose of the payment, activity and revenue account number, payment method, and the signature of the district employee receiving the money. Additionally, bank statements must be reconciled monthly and reviewed by the treasurer and all monetary collections must be deposited and reviewed by the treasurer. With the ease of online banking, it's recommended that the board chair and treasurer have access to mobile banking.

### **Section 5: Internal Control / Segregation of Duties**

As local units of government entrusted with public funds and subject to audits, districts must have a system of internal control / segregation of duties to insure transparency and honesty. There are several ways to do this:

- Bank statements mailed directly to the board treasurer
- Dual signature of checks that includes two board members only
- Appropriate documentation attached to all disbursements
- Original bills, not copies, used for documentation
- Separate responsibilities among staff on who receives income, mail, etc. and who deposits it into the bank
- Employee a bookkeeper or financial manager to provide an additional level of separation

The district board must approve all expenses prior to disbursement or in some cases they may have an ongoing agreement to pay specific bills monthly because they are due before the board is to meet. This should be noted in the minutes and approved by the board once a year.

### **Section 6: Preparing for an Audit**

A conservation district audit can go smoothly if the district keeps its files orderly and within sequence. Audit reports must be conducted by an independent certified public accountant (CPA) and prepared in compliance with the Bulletin for Audits of Local Units

of Government in Michigan. It's common to send out bids to several CPA firms to obtain several quotes. Common documents required to complete a district generally accepted auditing standards (GAAS) audit include:

1. Expense records w/ supporting documentation
2. Bank reconciliations
3. Income records w/ sales receipts
4. Tax filings / reports
5. Contracts & grants
6. Board minutes
7. Policies & work agreements
8. Lease agreements
9. Copy of QuickBooks
10. Original & final budgets
11. Employee sick & annual leave balances
12. Capital assets

### **Section 7: MDARD Grant Readiness Guidelines**

To be eligible for a grant of \$50,000 or more from MDARD, districts must:

- Annually submit a budget
- Maintain accurate financial records following the Uniform Accounting Procedures Manual, and
- Biannually conduct and submit a GAAS audit

## **CHAPTER TEN HIRING AND EMPLOYMENT GUIDELINES**

### **Section 1: The Role of the Director**

Conservation district directors bear the responsibility and accountability for the personnel management policies, supervision, and decisions needed to maintain an effective and productive staff. Directors should do the following:

- Supervise the district manager
- Assist writing and administering personnel policies; review and amend annually
- Develop position descriptions, work agreements, and employee development plans (EDP); review and amend annually
- Initiate and participate in the employee selection process and annual evaluations
- If co-located with NRCS, ensure employees adhere to agreements with USDA (see Section 8)
- Ensure employees are well-trained, demonstrate high competence in their respective jobs, and work well together as a team

District boards are encouraged to establish a personnel committee (two directors) to work with staff and provide guidance on employment issues to the full board. The board should also consider designating one director to serve as the liaison for district employees. The liaison keeps the district board apprised of employee needs and employment situations that may need attention. Often, employee evaluations are conducted by the personnel liaison (or committee) and the district manager.

### **Section 2: The Role of the Manager**

Conservation district managers are hired to oversee the district staff and the office, with guidance from the board. Managers should do the following:

- Supervise the district staff
- Assist writing and administering personnel policies; ensure updates are provided to district staff
- Assist with developing position descriptions, work agreements, and employee development plans (EDP) and ensure staff adhere to roles and expectations
- Participate in the employee selection process (conduct onboarding, ensure employee forms are created and filed, etc.)
- Participate in employee evaluations

### **Section 3: Legal Requirements**

By law, a district must provide all employees with workers' compensation insurance, unemployment compensation insurance, and a surety bond for all employees entrusted with district funds or equipment (see Section 4 of Chapter 4). Districts are also

responsible for state and federal income tax deductions. Forms to be filled out by employees and filed by the district (more detail in Chapter Fourteen):

- Form W-4, Employee's Withholding Certificate, Dept. of the Treasury (filed)
- MI-W4, Employee's MI Withholding Exemption Certificate, MI Dept. of Treasury (filed)
- Form I-9, Employment Eligibility Verification, US Dept. of Homeland Security (filed)
- State of Michigan New Hire Reporting form, MI Dept. of Treasury (filed + submitted)

### Unemployment Insurance Tax

Districts *do not* pay federal unemployment tax assessment (FUTA) but do pay Michigan unemployment tax which is filed online through the Michigan Web Account Manager (MiWAM). More detail can be found in Chapter Fourteen.

### Seasonal Employment Status

The Michigan Employment Security Act now denies unemployment benefits under Michigan law between seasons, to some seasonal workers, if the employer has given those workers a reasonable assurance of returning to work the next season. A seasonal worker will only be denied unemployment benefits between seasons when each one of the following conditions is met by the employer:

- When the employer chooses to apply to the Unemployment Agency (UA) to be a seasonal employer, and posts a copy of the application form for all workers to see
- When the UA decides the employer is a seasonal employer
- When the employer posts a notice telling workers that the UA has decided the employer is a seasonal employer
- When workers receive written notice that they are seasonal (recommended in their work agreement)
- When the employer has given the worker reasonable assurance of returning to work next season
- When the person works only during the employer's normal seasonal work period

Districts interested in the use of seasonal employer status should consult the statute for the complete text. Follow up questions can be directed to the UA claimant customer relations, toll-free, at: 1-800-638-3995.

### Workers' Compensation Insurance

Districts that employ three or more employees at any one time or employ one or more workers for 35 or more hours per week for 13 or more weeks, are subject to the

Workers' Disability Compensation Act of Michigan. This requires employers to purchase an insurance policy from a private company or obtain permission from the Bureau of Workers' Disability Compensation to be 'self-insured' (can demonstrate a sound financial condition to cover costs in house). Rates are based on the 'classification' of the employees covered (i.e. - field vs. office based).

#### **Section 4: Fair Labor Standards Act**

The federal Fair Labor Standards Act (FLSA) applies to conservation districts as units of government. To understand FLSA, visit <https://www.dol.gov/agencies/whd/flsa>. In general, FLSA requires:

1. Pay at least minimum wage (federal or state, whichever is higher)
2. Compensate employees for working over 40 hours per week
3. Retain all payroll records required by law and display an official FLSA poster
4. Abide by all child labor laws

However, Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional and outside sales employees. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$684 per week. Employers may use nondiscretionary bonuses and incentive payments (including commissions) paid on an annual or more frequent basis, to satisfy up to 10 percent of the standard salary level. Job titles do not determine exempt status. For an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the US Department of Labor's regulations.

#### **Hourly vs. Salaried Employees**

The main difference between hourly and salaried employees is how they are paid. Hourly workers are paid an hourly rate for each hour they work and are entitled to overtime pay if they work over 40 hours per week. Salary employees are typically not given overtime pay. Hourly employees are compensated by a set hourly rate which is multiplied by the hours worked during any given pay period. All hourly workers are considered non-exempt employees under the FLSA guidelines. Non-exempt employees are not exempt from being paid overtime; they must be paid at time and a half for all hours worked over 40, in a given week and must be paid, at the least, minimum wage.

#### **Overtime Pay vs. Compensatory Time Off**

The Michigan Improved Workforce Opportunity Wage Act, Public Act 337 of 2018, as amended, allows the accrual and use of compensatory time in lieu of payment of overtime wages, under certain conditions. The statutory provisions on compensatory time can be found at Section 4a(8) MCL 408.934a(8) of the Michigan Compiled Laws; districts interested in the use of compensatory time should consult the statute for the complete text (see Chapter Thirteen, Section 6). An employee, other than an employee

covered by a collective bargaining agreement, may elect to receive compensatory time and compensatory time off in lieu of overtime compensation provided all the following occur:

1. The employee and employer are covered by the Improved Workforce Opportunity Wage Act
2. The employer provides at least 10 paid days of leave per year, in addition to the compensatory time
3. If employees are not represented by a collective bargaining agent or other representative designated by the employee, the employee voluntarily consents in writing to receive compensatory time and compensatory time off in lieu of overtime wages *prior* to working the overtime (kept on file)
4. One and one half (1.5) hours of compensatory time and compensatory time off is provided for each hour of overtime worked
5. Accrued compensatory time may not exceed 240 hours

The following apply to the use of compensatory time:

1. The employer must receive and keep on file the written consent of the employee requesting compensatory time before the compensatory time is earned
2. The employer must provide the employee a statement of compensatory time earned and compensatory time paid in the pay period the compensatory time is earned or paid
3. The payroll record maintained by the employer must show compensatory time credited in the period it is earned
4. An employer must pay an employee within 30 days of a request for compensatory time (the request need not be in writing)
5. Compensatory time must be paid at a rate not less than the rate it was earned
6. An employee must be permitted to use compensatory time as requested unless use would be unduly disruptive
7. Accrued compensatory time must be paid to an employee leaving employment
8. Unless prohibited by a collective bargaining agreement, an employer must give employees 60 days' notice of the cancellation of a compensatory time or compensatory time off plan

## **Section 5: Mandatory State and Federal Employment Posters**

Conservation districts are required to hang state and federal labor regulation posters. Failure to post these notices in conformity with state and federal laws may result in substantial civil or criminal penalties. Information regarding these posters and the accompanying state and federal regulations are available at [https://www.michigan.gov/documents/cis\\_wsh\\_cet0155\\_120262\\_7.doc](https://www.michigan.gov/documents/cis_wsh_cet0155_120262_7.doc).

## **Section 6: District Personnel Policies**

Conservation districts should adopt a personnel policy. Personnel policies outline

employment classification and benefits, conditions of employment, duties and responsibilities, and more. The policy must be consistent with state and federal labor laws.

There are two types of personnel policies, *Just Cause* and *At Will*. A *Just Cause* policy states the employer must have a reason for termination and a procedure for progressive discipline. An *At Will* policy permits either party, employer or employee, to end the employment relationship at either one's discretion, with or without cause. Michigan is an *At Will* state, however, this is not as easy as it sounds. Laws and court cases have placed major restrictions on an employer's right to terminate employees or to treat some employees differently from others. State and federal laws prohibit discrimination against employees. The district may be liable in court for employment actions that violate public policy.

*At Will* status is not a substitute or excuse to ignore good management practices. Certain actions help preserve at-will employment. Board and/or managers should:

- Establish clear personnel policies
- Ensure all employees understand and agree to abide by these policies
- Counsel, mentor, and discipline employees who fail to meet job performance expectations
- Keep thorough records of job performance to document your district's actions are legitimate and based only on unacceptable job performance, not discriminatory actions
- Apply practices and policies consistently and equitably

*At Will* employers may still be required to defend their actions in court or before federal and state agencies, so it is prudent for districts to have records documenting legitimate business reasons for any important personnel actions.

After a policy is adopted, it should be reviewed annually. The revisions need to be recorded in board minutes. It is important all staff understand and sign the district personnel policy upon hire, and every time the policy is updated. A policy acknowledgment statement can be included in work agreements, or a signature page can be incorporated into the policy handbook.

*At Will* policies should state at the very beginning they are not a contract, the district reserves its right to employ *At Will*, and both the district and employee can terminate the employment relationship at any time for any reason. Also, it's important to state the policy is meant to contain general guidelines only, and the district has the right to deviate from them at its discretion and the right to make changes to policies from time to time.

## **Section 7: Work Agreement**

Districts are encouraged to develop written work agreements for all employees. Work

agreements summarize the benefits, rights, and expectations of each employee. MDARD grant agreements require work agreements for grant-funded staff. Work agreements are typically updated and signed by the employee and board chair annually. The board and district manager should review work agreements with new employees. The agreement should include, but not be limited to, the following:

1. A statement affirming the district policy of nondiscrimination by race, creed, height, weight, color, religion, age, or sex in appointments, promotions, compensation, or other actions affecting employees of the district
2. Employee duties
3. Salary rate, fringe benefits, and payment schedule
4. Work hours and breaks\*

\*Remember, employers must provide employees with at least a 30-minute, unpaid meal break for every 8 hours of continuous work. In addition, employees must be provided with at least a 10-minute paid, rest break for every 4 hours worked in a day. If the employee's total work time is 3 ½ hours or less, then a break is not required.

### **Section 8: Position Descriptions**

Position descriptions outline the district employees' duties and responsibilities. Directors should review position descriptions with their employees annually. There are two basic types of positions within districts: technical and administrative. Grant-funded, technical positions often include a position description in terms of the grant. The duties and responsibilities of the administrative staff (district managers or administrative assistants) are derived from the needs of the district. The following is a checklist that directors should use for developing both administrative and technical job position descriptions:

- Assign responsibility for writing the position description
- Complete a workload analysis
- Develop a list of duties and include a performance standard to measure outcomes
- List the skills and abilities necessary to perform the tasks
- Define a title and purpose for the position
- Identify who will provide supervision (i.e., board chair or district manager)
- Clarify how, when, and by whom the employee will be evaluated
- Include a copy to the funding source, when requested

### **Section 9: Employee Supervision**

A supervisor is accountable for the actions and productivity of their employees. Boards provide supervision of the district manager and give the manager the responsibility of supervising the staff. Proper supervision consists of the following, as a minimum:

- Clear direction and expectations of all aspects of a position
- Regular feedback on performance

- Demonstration of personal concern, fairness, and respect for the employee

While the conservation district hires an employee, the employee often works under the guidelines of an overseeing agency or funding source, such as MDARD, EGLE, or MDNR. At times, this may be confusing to the employee. District staff must understand the chain of command with the board of directors as the employer and the district manager as the staff supervisor.

### **Section 10: Employee Discipline**

District directors and managers make individual employees of the district maintain professionalism. Refer to the district's personnel policy if disciplinary action is necessary to address performance or behavioral problems. Use of progressive discipline determines the district's distinction as a *Just Cause* employer.

### **Section 11: Employee Evaluations**

Conservation districts should provide performance evaluations for their employees, at least annually, by the district manager, board (as part of a board meeting), and/or personnel committee/board liaison. The evaluation process sets up open communication between the employer and the employee. An evaluation allows the employee to know how their work is perceived and how they are performing based on predetermined criteria. It also allows for the setting of annual goals and accomplishments.

### **Section 12: Employee Benefits**

As subdivisions of the state, conservation districts are a unit of government within the state of Michigan, like a township, city, or county. District boards may choose a vendor to offer retirement and/or health care plans to their employees. Several conservation district employees have participated in the Municipal Employees Retirement System (MERS). See <https://www.mersofmich.com/mers/about-mers/who-we-are/> for more information.

### **Section 13: Recruitment of New Employees**

Recruitment is the process of locating and hiring employees. Casting a wide net when recruiting new candidates is an important part of building a good conservation district program. Districts should employ a thorough, transparent, and competitive interview process. Interviews are used to narrow the final candidates for a position, but they should not be the only source for selection. A combination of the following selection methods is commonly used:

- Prior job references and recommendations
- Full application including a cover letter and resume
- Review of college transcripts

- Interviews with selected candidates

There are many great places to post jobs, including:

- Conservation Job Board
- Texas A&M Wildlife & Fisheries Science job board
- Local university job boards
- Employment search engines (Indeed, CareerBuilder, Monster, Handshake, etc.)
- MI Talent Bank
- District Facebook and website
- MACD
- Local newspapers and radio stations

### **Section 14: Interviewing Candidates**

It is imperative that districts are fair and objective in hiring of staff. MDARD Regional Coordinators are available to help conduct interviews (and are required to assist for all MDARD grant agreements). Prior to the interview, a panel, possibly consisting of a director(s), the district manager, the MDARD RC, and the NRCS DC, should work to screen the candidates based on a scoring metric approved by the group. This could include:

- Experience or degree in natural resources or business administration
- Customer / public service experience
- Administrator / manager or leadership experience
- Conservation / field experience
- Great Lakes region / experience
- Volunteer experience / community value
- Special skills related to the job (grant writing/reporting, financial or QuickBooks knowledge, agricultural or engineering background, etc.)
- Following directions / application quality (organizational skills)
- Soft skills (communication, problem solving, collaboration, critical thinking, etc.)

Preferably, the top 3-5 qualified candidates should be selected for an interview. Interview panels should be prepared to conduct in person, phone, and video conferencing (Skype, Zoom, Google Duo or Meet) interviews. The board chair should have the following information available to answer questions the candidates will likely ask:

- Beginning hourly and/or yearly pay rate and benefits
- Work hours, location of work site, and use of personal vehicle, if needed
- Description of duties / expectations not reflected in the posting description

When conducting interviews:

- Introduce everyone in the room
- Ask the applicant if they have any questions
- Provide the applicant with the list of interview questions
- Give an overview of the expectations for the position
- Introduce the conservation district and explain how the position fits into the district's mission
- Have the interview panel take turns asking questions
- Allow the applicant to ask questions
- Take notes to refer to once the interview is complete

The following questions/topics are illegal to ask candidates during interviews:

- Race, color, or national origin
- Religion
- Sex, gender identity, or sexual orientation
- Pregnancy status
- Disability
- Age or genetic information
- Citizenship
- Marital status or number of children

### **Section 15: Pre-Employment Process**

After the interviews have been completed and agreed upon scoring metric has been used, 1-3 candidates will likely stand out amongst the interviewing panel. It is important to call references and past employers to better understand each of the candidates. Use the application package, interview notes, scoring metric, and reference check to select a candidate. Once an offer is made, districts are encouraged to conduct background checks and drug screening before finalizing the employment offer. This is required to utilize NRCS resources, including computers. After the pre-employment requirements are met, consideration should be made to inform the rest of the unsuccessful applicants.

### **Section 16: Employee Orientation**

The district should provide an employee orientation within the first week of the employee's start date. The orientation should be completed by a director(s) and the district manager, with assistance from the MDARD Regional Coordinator and NRCS DC (where applicable), and must provide, at a minimum, the following information:

- Work schedule, travel and training procedures
- District pay period calendar and work holidays
- Information on the district field office (workstations and equipment, parking, security procedures, etc.)
- Personnel and other applicable policies and procedures unique to the district and the employee

- Grant agreement(s) employee will be working under

### **Section 17: Bringing New Employees into a Co-located Office**

If the district is co-located with NRCS, it is imperative that the district discuss bringing a new employee into the office with the NRCS DC prior to employment to ensure that office space and other resources are available to include more district staff. The district manager should work with NRCS to obtain and submit proper paperwork for new hires, especially when a LyncPass will be required.

## **CHAPTER ELEVEN DISTRICT EMPLOYEE TRAINING**

### **Section 1: District Employee Training**

Effective training programs should meet the personal objectives of the employee while addressing the immediate grant program goals (if applicable) and long-range goals of the district. The district board and manager are responsible for helping to identify professional development opportunities and budgeting funds needed to train their staff adequately. Boards should appoint one director to serve as the employee liaison who will review all the employees' training needs.

#### *Determining Training Needs and Objectives*

The district directors, manager, and the employee are responsible for identifying, discussing, and enrolling in training. Training needs can be determined through performance reviews/evaluation, observation of the employee, or recommendations from partner agencies. Before any training is scheduled, clear objectives should be set with the district manager that will let the employee know precisely why the training is being provided. Employees should have an observable change in ability, skill, or knowledge after receiving the training. The district manager should provide ongoing feedback on the employees' progress towards these objectives.

#### *Employee Development Plan*

When training needs have been determined, they should be recorded in an employee development plan (EDP). An EDP should be revised annually, at the start of the fiscal year, to set employee training goals and needs to both help the employees grow into their positions and to obtain training to strengthen their individual assets for the team. MDARD provides EDP templates to all grant-funded technical staff, which is required to be submitted and filed with MDARD's Environmental Stewardship Division. Additionally, MDARD has drafted an EDP for district managers. District boards should encourage employee development and allocate funds, as needed, to provide training to all staff.

#### *Mentoring*

Currently, the Forestry Assistance Program (FAP) provides the only mentoring program for conservation district staff. It would, however, be invaluable for all new staff to work with a mentor as they embrace their new roles.

### **Section 2: Training Opportunities**

#### *Self-Development*

Self-development is a useful method to meet individual training objectives. Self-development activities include taking initiative to read, review standard operating procedures (SOP), job shadow other colleague technicians and/or NRCS staff, and watch webinars and other online training.

### MACD-Sponsored Training

The Michigan Association of Conservation Districts (MACD), in partnership with MDARD, USDA-NRCS, MDNR, MSUE, EGLE, and CDEM, provides professional development training for conservation district directors and staff. Event training session topics vary. These trainings include:

- Summer conference – June
- Fall conference – October/November
- Director trainings – varies by region
- District manager retreat – Summer
- Region meetings – varies by region

Currently, MDARD grant funded technicians and their managers are required to attend both the summer and fall conferences. For more information concerning the training offered through MACD, please refer to their website at [www.macd.org](http://www.macd.org). Additionally, the MACD website contains training opportunities via self-paced modules for employees and board directors.

### MDARD-Sponsored Training

MDARD provides grant-specific training for technicians (MAEAP, FAP, CTAI, and Produce Safety). The MDARD MAEAP training coordinator, FAP coordinator, and CTAI and Produce Safety program managers will develop training curriculum and schedules for their respective programs and will notify district managers when the training schedules are available.

### USDA-NRCS

AgLearn is an internet-based training tool used by NRCS to collect and review training needs for NRCS and conservation district employees. The AgLearn system includes in-state training modules and an extensive library of online courses. The system also consists of a training needs inventory that NRCS utilizes to determine which educational sessions to provide during a given fiscal year.

Conservation districts interested in participating in NRCS courses need to review their training needs with their District Conservationist (DC) and submit their approved training requests to the Learning Plan in AgLearn. The process is as follows:

1. Review the course catalog online and select courses best suited to the district's needs

2. Complete an EDP
3. Contact your DC to discuss the district's training needs, for approval
4. Obtain a Level 2 eAuthentication account through your DC (refer to Chapter Seventeen)
5. Login to AgLearn by visiting <http://www.aglearn.usda.gov>
6. Select and set your DC as the supervisor in your AgLearn profile summary (this selection is a requirement to request enrollment and approval to take Michigan courses)
7. Add desired courses in AgLearn (contact your DC for assistance)

### Michigan Nonprofit Association

The Michigan Nonprofit Association offers a wide range of training events statewide throughout the year, many of which districts could find practical. These training events focus on such pertinent topics as project management, fundraising, volunteer management, advocacy development, media relations, grant-seeking, board development, and accounting software. Districts interested in taking advantage of these formal professional development opportunities should visit <http://www.mnaonline.org>.

## **CHAPTER TWELVE BOARD DEVELOPMENT, RECRUITMENT AND SUCCESSION**

### **Section 1: Board Development**

District directors have roles and responsibilities as elected officials. Ongoing development activities should be part of the plan for every board and every individual director. It is essential to attend state and regional meetings, take part in director training workshops, and keep up with pertinent literature. The district budget should include a specific line item for board development. There are several ways conservation district boards can obtain training and strengthen their effectiveness as a team; this includes:

- Review MACD online director training modules
- Attend MACD-sponsored director trainings and conferences
- Review Chapter Four: District Directors' Duties and Responsibilities
- Mentor with a seasoned board director
- Read board policies, grants, and current five-year, long-range plan
- Review and understand the county's master plan
- Understand and adhere to Conservation District Law (Appendix A)

The board should conduct a self-evaluation to determine the effectiveness of how they function as a group, whether they have met the goals of the district, and to pinpoint needed training. Appendix H contains a board governance element, created by MDARD CPU staff, to evaluate conservation district board effectiveness.

### **Section 2: Board Recruitment**

An important component of an active and healthy board is the continual recruitment of new district board members. Residents interested in conservation and serving on the board should be invited to attend regular board meetings. By doing this, the district board can familiarize the prospective candidate(s) with the district, its governing process, and its projects and grant opportunities. These prospective board members can become, with board approval, associate directors. Their informal inclusion in board meetings provides a unique "on the job training" that is designed to prepare them for an open director term if they choose to run during an election as a candidate (or as an appointee). Associate directors can provide a great deal of knowledge and insight to the board; however, they cannot count towards a quorum, make motions, or vote.

District boards should identify candidates using a thorough recruitment process. Board member recruitment of qualified and talented individuals requires looking beyond just a circle of friends and business associates. It means actively seeking ideas and prospects from outside one's inner circle that possess the specialized knowledge, skill, abilities, and contacts which the board needs to take the district programs to the next level of effectiveness. The conservation district board should strive to recruit and retain

candidates with diversified perspectives; a board should reflect the community it represents.

Before it begins recruiting district board members, the board should first identify what the human resources needs are of the district by following the guidelines below:

- List the major programs and activities of the district. This will help in identifying individuals in the community who have demonstrated - either in their personal lives and/or their careers - a similar interest in what the district wishes to achieve.
- Identify the strengths and weaknesses of the district. By understanding what the district excels at, and what areas the district could improve upon, directors will be better able to recognize individuals who possess the knowledge, skills, and experience to take on the leadership role of a director.
- Identify the programs and activities that the district would like to accomplish but - due to lack of resources, human or other - has been unable to accomplish. By doing so, the board will gain a better understanding for which key community leaders are best suited to fill these voids through their influence and networking opportunities.
- List the skills, abilities, knowledge, and experience provided by each board member. This will provide a reference for what qualities future board members should possess and what unique qualifications would be necessary in developing greater board diversity.

District board members need to have strong conservation ethics, skills, and knowledge, management skills, and leadership abilities. Recruitment of potential board members begins with identifying the qualities needed and desired by the local community. District board members should be recruited based on identified qualities and qualifications, and not on the criteria of “who’s available that we know”. Some desirable qualities for district board members includes:

- Open mindedness
- Strong leadership skills
- Innovative
- Professional
- Understanding of conservation issues
- Good speaking/communication skills
- Always learning
- Fundraising abilities
- Personnel management
- Legislative knowledge
- Leadership network in the community
- Financial skills
- Willingly and enthusiastically devotes time to the district

Once a district has identified its resource needs and the director qualities it is looking

for, it is time to develop a recruitment strategy. Whether the district has a resignation/retirement or an annual election, the following may be helpful recruiting efforts that districts should be prepared to share with interested candidates:

- District's mission and vision statements and primary goals and objectives
- Legal authority
- Major issues and accomplishments
- Major programs, activities, and funding sources
- Expectations and benefits of district board directors

When it comes to recruiting, there are many ways boards can locate interested candidates. This includes:

- Direct correspondence to potential candidates w/ an invitation to attend a board meeting(s)
- Public announcements: radio and television stations run free public service announcements for community organizations
- News releases or advertisements via newspaper, radio, television, and other media

Having associate board directors on the conservation district board brings additional support and knowledge to the team. It allows for smooth transitions, extra sets of hands, and more effective community engagement. Although they cannot vote during board motions, associate directors can offer a lot to the district, including sitting on committees. It's recommended that boards officially approve incoming associate directors and encourage them to be a part of the team.

### **Section 3: Director Onboarding**

When new directors, whether elected/appointed directors or associate directors, join the district team, they should be provided with an onboarding to efficiently and timely get them ready to fully engage with the board. New directors should be given a packet of introductory material that includes:

- MACD Conservation District Director Handbook
- Michigan Conservation District Operations Manual
- CD Law (Appendix A)
- District policies, grants, and planning documents

Directors should also be encouraged to attend the MACD director trainings, conduct onboarding with their MDARD Regional Coordinators, and mentor with a seasoned director.

### **Section 4: Director Succession**

After a district annual meeting and election, it is recommended that boards reorganize

their officer positions. Board chairs are discouraged from serving in the role for more than four successive years and boards are encouraged to rotate that and other positions even more frequently. This allows for preparation and smooth transitions of incoming chairs and other important board positions and their assigned duties. Districts should maintain an active and intentional recruitment strategy to ensure preparedness, diverse representation, and leadership succession.

#### **Section 4: Director Resignation**

The Common Law rule in Michigan is that a public officer's resignation is not effective until it has been accepted by the appointing authority. Acceptance can be either by formal acceptance at a board meeting or by appointment of a successor.

## CHAPTER THIRTEEN PERTINENT LAWS

The following laws and requirements either directly or indirectly apply to conservation districts in Michigan. Because of the long, in depth language in these laws, this chapter only contains a brief overview; districts should research and understand the legal requirements in house and adhere to them, create policies, and be transparent in their practices.

### **Section 1. Conservation District Law (Public Act 463 of 1998), Sections 324.9301-324.51306**

The legal authority and framework for conservation districts in Michigan comes from the NREPA (Public Act 451 of 1994, as amended), commonly known as “*Conservation District Law*”, Part 324. This Act replaced the Soil Conservation District Act of 1937 and established the Michigan Department of Agriculture and Rural Development (MDARD) as having oversight of conservation districts in Michigan. These sections are listed in Appendix A; it is important for districts to adhere to this law.

### **Section 2. Freedom of Information Act (FOIA) (Public Act 442 of 1976), as amended, Sections 15.231-15.246**

State of Michigan Act to provide for public access to certain public records of public bodies; to permit certain fees; to prescribe the powers and duties of certain public officers and public bodies; to provide remedies and penalties; and to repeal certain acts and parts of acts.

- 15.233 Sec. 3(2) A freedom of information act coordinator shall keep a copy of all written requests for public records on file for no less than 1 year.
- 15.234 Sec. 4(4) A public body shall establish procedures and guidelines to implement this act and shall create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the public body and explaining how to understand a public body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. The written public summary shall be written in a manner so as to be easily understood by the general public. If the public body directly or indirectly administers or maintains an official internet presence, it shall post and maintain the procedures and guidelines and its written public summary on its website.
- 15.235 Sec. 5(2) Unless otherwise agreed to in writing by the person making the request, a public body shall respond to a request for a public record within 5 business days after the public body receives the request by doing 1 of the following:

- (a) Granting the request.
  - (b) Issuing a written notice to the requesting person denying the request.
  - (c) Granting the request in part and issuing a written notice to the requesting person denying the request in part.
  - (d) Issuing a notice extending for not more than 10 business days the period during which the public body shall respond to the request. A public body shall not issue more than 1 notice of extension for a particular request.
- 15.236 Sec. 6(1) A public body that is a city, village, township, county, or state department, or under the control of a city, village, township, county, or state department, shall designate an individual as the public body's FOIA coordinator.

### Exemptions from FOIA

Section 15.243 Sec. 13 lists the disclosure exemptions from FOIA requests; the main one applicable to districts includes:

- (a) Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

### **Section 3. Open Meetings Act (OMA) (Public Act 267 of 1976), as amended, Sections 15.261-15.272**

State of Michigan Act to require certain meetings of certain public bodies to be open to the public; to require notice and the keeping of minutes of meetings; to provide for enforcement; to provide for invalidation of governmental decisions under certain circumstances; to provide penalties; and to repeal certain acts and parts of acts. Understanding this law will be important for posting requirements, closed sessions, minutes, and more. More information can be found at [https://www.michigan.gov/documents/ag/OMA\\_handbook\\_287134\\_7.pdf](https://www.michigan.gov/documents/ag/OMA_handbook_287134_7.pdf). A few important sections include:

- 15.263 Sec. 3(1) All meetings of a public body shall be open to the public and shall be held in a place available to the general public.
- 15.263 Sec. 3(2) All decisions of a public body shall be made at a meeting open to the public.
- 15.265 Sec. 5(1) A meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body.
- 15.265 Sec. 5(2) For regular meetings of a public body, there shall be posted within **10 days** after the first meeting of the public body in each calendar or fiscal year a public notice stating the dates, times, and places of its regular meetings.

- 15.265 Sec. 5(3) If there is a change in the schedule of regular meetings of a public body, there shall be posted within **3 days** after the meeting at which the change is made, a public notice stating the new dates, times, and places of its regular meetings.
- 15.265 Sec. 5(4) For a rescheduled regular or a special meeting of a public body, a public notice stating the date, time, and place of the meeting shall be posted at least **18 hours** before the meeting in a prominent and conspicuous place at both the public body's principal office and, if the public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, on a portion of the website that is fully accessible to the public.
- 15.269 Sec. 9(1) Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting.
- 15.269 Sec. 9(3) A public body shall make proposed minutes available for public inspection within **8 business days** after the meeting to which the minutes refer. The public body shall make approved minutes available for public inspection within **5 business days** after the meeting at which the minutes are approved by the public body.

**Section 4. Uniform Budgeting and Accounting Act (Public Act 2 of 1968),  
Sections 141.421-141.440**

State of Michigan Act to provide for the formulation and establishment of uniform charts of accounts and reports in local units of government; to define local units of government; to provide for the examination of the books and accounts of local units of government; to provide for annual financial reports from local units of government; to provide for the administration of this act; to prescribe the powers and duties of the state treasurer, the attorney general, the library of Michigan and depository libraries, and other officers and entities; to provide penalties for violation of certain requirements of this act; to provide for meeting the expenses authorized by this act; to provide a uniform budgeting system for local units; and to prohibit deficit spending by a local unit of government. A few important sections include:

- 141.421 Sec. 1(1) The state treasurer shall prescribe uniform charts of accounts for all local units of similar size, function, or service designed to fulfill the requirements of good accounting practices relating to general government. Such chart of accounts shall conform as nearly as practicable to the uniform standards as set forth by the governmental accounting standards board or by a successor organization that establishes national generally accepted accounting standards and is determined acceptable to the state treasurer. The official who by law or

charter is charged with the responsibility for the financial affairs of the local unit shall insure that the local unit accounts are maintained and kept in accordance with the chart of accounts.

- 141.425 Sec. 5(1) A local unit having a population of less than 4,000 shall obtain an audit of its financial records, accounts, and procedures not less frequently than biennially.
- 141.425 Sec. 5(2) A local unit having a population of 4,000 or more shall obtain an annual audit of its financial records, accounts, and procedures.
- 141.428 Sec. 8 Every audit report shall do all of the following: (a) State that the audit has been conducted in accordance with generally accepted auditing standards and with the standards prescribed by the state treasurer. See section 8 for further details.
- 141.436 Sec. 16(3) The general appropriations act shall set forth the amounts appropriated by the legislative body to defray the expenditures and meet the liabilities of the local unit for the ensuing fiscal year, and shall set forth a statement of estimated revenues, by source, in each fund for the ensuing fiscal year.
- 141.439 Sec. 19(1) A member of the legislative body, the chief administrative officer, an administrative officer, or an employee of a local unit shall not authorize or participate in the expenditure of funds except as authorized by a general appropriations act. An expenditure shall not be incurred except in pursuance of the authority and appropriations of the legislative body of the local unit.
- 141.439 Sec. 19(2) The legislative body in a general appropriations act may permit the chief administrative officer to execute transfers within limits stated in the act between appropriations without the prior approval of the legislative body.

The Uniform Budgeting and Accounting Act further details information on budget preparation, presentation, and content. Additionally, the Michigan Conservation District Uniform Accounting Procedure Manual, located on the MACD website, details the accounting procedures for districts.

### **Section 5. Other laws under NREPA (Public Act 451 of 1994), as amended**

Fertilizers, Part 85; Sec. 324.8512h:

- The fertilizer advisory committee is created within the department (MDARD). The committee shall be composed of the following members:
  - (g) One member representing conservation districts

Soil Erosion and Sedimentation Control, Part 91, as amended (formerly known as Public Act 347 of 1972): Provides for the control of soil erosion and protects adjacent properties and the waters of the state from sedimentation.

- Sec. 324.9109 Agreement between public agency or county or municipal enforcing agency and conservation district.
  - Sec. 9109(1) An authorized public agency, county enforcing agency, or municipal enforcing agency may enter into an agreement with a conservation district for assistance and advice in overseeing and reviewing compliance with soil erosion and sedimentation control procedures and in reviewing existing or proposed earth changes, earth change plans, or site plans with regard to technical matters pertaining to soil erosion and sedimentation control. In addition to or in the absence of such agreements, conservation districts may perform periodic reviews and evaluations of the authorized public agency's, county enforcing agency's, or municipal enforcing agency's programs or procedures pursuant to standards and specifications developed in cooperation with the respective districts and as approved by the department. These reviews and evaluations shall be submitted to the department (EGLE) for appropriate action.
  - Sec. 9109(2) A person engaged in agricultural practices may enter into an agreement with the appropriate conservation district to pursue agricultural practices in accordance with and subject to this part, the rules promulgated under this part, and any applicable local ordinance. If a person enters into an agreement with a conservation district, the conservation district shall notify the county enforcing agency or municipal enforcing agency or the department in writing of the agreement. Upon entering into the agreement under this subsection, a person is not subject to permits required under this part, but is required to develop project specific soil erosion and sedimentation control plans and is subject to the remedies provided for in this part for violations of this part.

Farmland and Open Space Preservation, Part 361 (Public Act 451 of 1994), as amended, (formerly known as Public Act 116 of 1974 or P.A. 116): The Farmland and Open Space Preservation Program (PA 116) preserves farmland from being developed for non-agricultural uses. Participating landowners are exempt from some special assessments and may also receive a Michigan income tax credit for property tax in excess of 3.5 percent of total household income.

- 324.36104, Sec. 36104(2) Upon receipt of the application, the local governing body shall notify the county planning commission or the regional planning commission and the soil conservation district agency. If the county has

jurisdiction, it shall also notify the township board of the township in which the land is situated.

- 324.36104, Sec. 36104(3) An agency or local governing body receiving notice has 30 days to review, comment, and make recommendations to the local governing body with which the application is filed. These reviewing agencies do not have an approval or rejection power over the application.

During an application review, a conservation district's most critical role is to confirm whether more than 51% of the land is in agricultural use; land that is less than 51% cannot be enrolled in the program. With 600+ new PA 116 applications each year, the MDARD Farmland and Open Space Preservation Program staff are unable to conduct site visits across the state and rely on districts to help determine program eligibility, rather than relying on aerial photographs.

### **Section 6. Qualified Forest Program, The General Property Tax Act (Public Act 206 of 1893)**

The purpose of the Qualified Forest Program (QFP) is to encourage landowners to actively manage their privately-owned forests for commercial harvest, wildlife habitat enhancement, and improvement of other non-forest resources. In exchange for managing their forests in a sustainable fashion, the landowner will receive an exemption from the local school operating millage.

- Sec. 7jj(2) If a property owner is interested in obtaining an exemption for qualified forest property under this section, the property owner may contact the local conservation district or the department (MDARD), and the local conservation district or the department shall advise the property owner on the exemption process. If requested by the property owner, the local conservation district or the department shall provide the property owner with a list of qualified foresters to prepare a forest management plan. The department shall maintain a list of qualified foresters throughout the state and shall make the list available to the conservation districts and to interested property owners. To claim an exemption under subsection (1), a property owner shall obtain a forest management plan from a qualified forester and submit a digital copy of that forest management plan, an application for exemption as qualified forest property, and a fee of \$50.00 to the department on a form created by the department by September 1 prior to the tax year in which the exemption is requested. Before submitting the application to the department, the property owner is encouraged to consult with the local conservation district to review the obligations of the qualified forest program and the obligations of the property owner's forest management plan. A forest management plan is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The department shall forward a copy of the application to the local conservation district for review and to the local tax collecting unit for notification of the application.

- Sec. 7jj(3) A conservation district shall review the application to determine if the applied-for property meets the minimum requirements set forth in subsection (17)(k) for enrolling into the qualified forest program. A conservation district shall respond within 45 days after the date of its receipt of the application indicating whether the property in the application is eligible for enrollment. If the conservation district does not respond within 45 days after its receipt of the application, the property shall be considered eligible for the exemption under this section.
- Sec. 7jj (4) The department shall review the application, comments from the conservation district, and the forest management plan to determine if the property is eligible for the exemption under this section.

## **Section 7. Michigan Employment Laws**

Elliott-Larsen Civil Rights Act (Public Act 220 of 1964 and 453 of 1976), as amended: State of Michigan Act to define civil rights; to prohibit discriminatory practices, policies, and customs in the exercise of those rights based upon religion, race, color, national origin, age, sex, height, weight, familial status, or marital status; to preserve the confidentiality of records regarding arrest, detention, or other disposition in which a conviction does not result; to prescribe the powers and duties of the civil rights commission and the department of civil rights; to provide remedies and penalties; to provide for fees; and to repeal certain acts and parts of acts.

Improved Workforce Opportunity Act (Public Act 337 of 2018): State of Michigan Act to fix minimum wages for employees within this state; prohibit wage discrimination; provide for a wage deviation board; provide for the administration and enforcement of the act; prescribe penalties for the violation of the act; and supersede certain acts and parts of acts including 2014 PA 138 (see Chapter 10, Section 4).

Paid Medical Leave Act (Public Act 338 of 2018, as amended by PA 369 of 2018): State of Michigan Act to require certain employers to provide certain employees with paid medical leave for personal or family health needs, as well as purposes related to domestic violence and sexual assault; to specify the conditions for accruing and using paid medical leave; to prescribe powers and duties of certain state departments, agencies, and officers; and to provide remedies and sanctions.

Persons with Disabilities Civil Rights Act (Public Act 220 of 1976): The Persons with Disabilities Civil Rights Act is a State of Michigan Act to define the civil rights of persons with disabilities; to prohibit discriminatory practices, policies, and customs in the exercise of those rights; to prescribe penalties and to provide remedies; and to provide for the promulgation of rules.

## **Section 8. Federal Employment Laws**

American's with Disabilities Act (ADA): The US Department of Labor's ADA prohibits

discrimination against people with disabilities in several areas, including employment, transportation, public accommodations, communications and access to state and local government' programs and services.

Fair Labor Standard Act of 1938, as amended: The US Department of Labor's Fair Labor Standard Act (FLSA) provides for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes. This Act establishes minimum wage, overtime pay eligibility, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments.

- Employees are entitled to the current federal minimum wage or the State of Michigan's minimum wage, whichever is higher.
- Overtime-eligible employees must be compensated with overtime pay or compensatory time for all hours worked over 40 in a single workweek, at a rate of 1.5/hour worked.
- Employers must display an official poster outlining the requirements of the FLSA (see below). Employers must also keep employee time and pay records.
- These provisions are designed to protect the educational opportunities of minors and prohibit their employment in jobs and under conditions detrimental to their health or well-being.

Employers must display an official poster outlining the provisions of the Act, available at no cost from local offices of the Wage and Hour Division and toll-free, by calling 1-866-4USWage (1-866-487-9243). This poster is also available electronically for downloading and printing at <https://www.dol.gov/agencies/whd/posters>.

Family Medical Leave Act (FMLA) (Part 825 of 1993): The FMLA is a federal law that provides eligible employees of covered employers with unpaid, job-protected leave for specified family and medical reasons. Eligible employees must meet both the following requirements by the date of the FMLA request:

- Has been employed for at least 12 months
- Has been employed for at least 1,250 hours

Eligible employees may take up to 12 work weeks of leave in a 12-month period for one or more of the following reasons:

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care, and to bond with the newborn or newly placed child.
- To care for a spouse, son, daughter, or parent who has a serious health condition, including incapacity due to pregnancy and for prenatal medical care.
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job, including incapacity due to pregnancy and for prenatal medical care.

- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

However, 825.108(d) states: All public agencies are covered by the FMLA regardless of the number of employees; they are not subject to the coverage threshold of 50 employees carried on the payroll each day for 20 or more weeks in a year. However, employees of public agencies must meet all of the requirements of eligibility, including the requirement that the employer (e.g., conservation district) employ 50 employees at the worksite or within 75 miles.

Although confusing, the basic take-home is that districts must adhere to the FMLA, but employees must also be eligible and, in the case of Michigan conservation districts, none are as no districts currently employ 50 employees. This does not mean districts *cannot* provide the FMLA benefits to their staff.

For more information about the FMLA or to download the FMLA poster, visit the Department of Labor's website at <https://www.dol.gov/agencies/whd/fmla> or call 1-866-4US-WAGE (1-866-487-9243). Or check out the employer's guide at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/employerguide.pdf>

## **Section 9. Other Michigan Laws**

Credit Card Transactions (Public Act 266 of 1995): State of Michigan Act to authorize and regulate credit card transactions involving local units of government, including the use of credit cards by officers and employees of local units of government; and to provide for powers and duties of certain state and local agencies, officers, and employees.

- 129.243 Sec. 3. A local unit shall not be a party to a credit card arrangement unless the governing body of the local unit has adopted by resolution a written policy.
- 129.244 Sec. 4. (1) The total combined authorized credit limit of all credit cards issued by a local unit shall not exceed 5% of the total budget of the local unit for the current fiscal year.

Investments of Surplus Funds of Political Subdivisions (Public Act 20 of 1943, as amended by PA 196 of 1997): State of Michigan Act relative to the investment of funds of public corporations of the state; and to validate certain investments.

- 129.91 Sec. 1 (1). Except as provided in Section 5, the governing body by resolution may authorize its investment officer to invest the funds of the public corporation in one or more of the following:
  - (a) Bonds, securities, and other obligations of the United States or an agency or instrumentality of the United States.

- (b) Certificates of deposit, savings accounts, deposit accounts, or depository receipts of a financial institution, but only if the financial institution complies with subsection (2).
- See the Act for other uncommon investments in (c)-(j).
- 129.91 Sec. 1 (2). A public corporation that invests its funds under subsection (1) shall not deposit or invest the funds in a financial institution that is not eligible to be a depository of funds belonging to the state under a law or rule of this state or the United States.
- 129.95 Sec. 5 (1) Not more than 180 days after the end of a public corporation's first fiscal year that ends after the effective date of the amendatory act that repealed section 2, a governing body, in conjunction with the investment officer, shall adopt an investment policy that, at a minimum, includes all of the following:
  - (a) A statement of the purpose, scope, and objectives of the policy, including safety, diversification, liquidity, and return on investment.
  - (b) A delegation of authority to make investments.
  - (c) A list of authorized investment instruments. If the policy authorizes an investment in mutual funds, it shall indicate whether the authorization is limited to securities whose intention is to maintain a net asset value of \$1.00 per share or also includes securities whose net asset value per share may fluctuate on a periodic basis.
  - (d) A statement concerning safekeeping, custody, and prudence.

County Boards of Commissioners (Public Act 156 of 1851), as amended: State of Michigan Act to define the powers and duties of the county boards of commissioners of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the violation of the provisions of the act.

- Sec. 46.22 (1) As provided in this section, a county may levy a tax and remit the proceeds of that tax to a conservation district.
- Sec. 46.22 (2) A county described in subsection (1), by resolution of the county board of commissioners, may place on the ballot at a regular or primary election in even numbered years the question to levy upon all taxable property in the county a tax of not more than 1 mill for not more than 20 years and to remit the proceeds of that tax to a conservation district established in that county. If a millage is approved under this subsection, the county shall remit the proceeds of that tax to the conservation district.
- Sec. 46.22 (3) If a conservation district is established in more than 1 county and the counties in which it is established approve different millage rates as provided in this section, the lowest millage rate approved shall be the millage rate levied in each county.

Budget Hearings of Local Governments Act (Public Act 43 of 1963): State of Michigan Act to provide for public hearings on budgets of local units of government.

- 141.412 Sec. 2 A local unit shall hold a public hearing on its proposed budget. The local unit shall give notice of the hearing by publication in a newspaper of general circulation within the local unit at least **6 days** before the hearing. The notice shall include the time and place of the hearing and shall state the place where a copy of the budget is available for public inspection.
- 141.413 Sec. 3 Each local unit shall hold such public hearing prior to final adoption of its budget.

Right to Forest Act (Public Act 676 of 2002): State of Michigan Act to provide for circumstances under which certain forestry operations shall not be found to be a public or private nuisance; to provide for certain forestry management practices; to provide for certain powers and duties for certain state agencies and departments; and to provide remedies.

Michigan Right to Farm Act (Public Act 93 of 1981): State of Michigan Act to define certain farm uses, operations, practices, and products; to provide certain disclosures; to provide for circumstances under which a farm shall not be found to be a public or private nuisance; to provide for certain powers and duties for certain state agencies and departments; and to provide for certain remedies for certain persons.

The MDARD Right to Farm (RTF) program responds to nuisance complaints involving farms and will assess a farm operation at a farmer's request. RTF is a voluntary program, but compliance provides farmers with protection from civil lawsuits. RTF program staff will evaluate farm activities to decide whether a farm is following the Generally Accepted Agricultural and Management Practices (GAAMPs).

The Insect Pest and Plant Disease Act (Public Act 189 of 1931): State of Michigan Act to regulate the sale and distribution of nursery stock, plants, and plant products; to prevent the introduction into and the dissemination within this state of insect pests and plant diseases; to provide for the destruction and control of insect pests and plant diseases; to provide for the destruction or treatment of certain plants or plant products; to provide for the licensure and inspection of certain persons and activities under certain circumstances; to impose certain powers and duties on the director of agriculture; to create certain restricted funds for certain department activities and to allow allocation of those funds throughout the department; to provide for the promulgation of rules; to prescribe penalties and civil sanctions; and to provide remedies.

#### Nursery Grower / Dealer Licenses and Inspections

Nursery growers who grow, cultivate (actively increase in size, quantity, or quality,) or overwinter winter-hardy nursery stock for future sale on at least ¼ acre of outdoor

growing area or 200 sq. ft. of greenhouse/hoophouse space must pay an annual fee of \$100. Small-scale nursery growers (production is limited to <¼ acre of outdoor growing area or 200 sq. ft. of greenhouse/hoophouse space must pay an annual fee of \$40.

Nursery dealers (including conservation districts) who buy and resell winter-hardy nursery stock, any portion of which is not Michigan-grown, must pay an annual fee of \$100. Nursery dealers who buy and resell winter-hardy nursery stock that is 100% Michigan-grown must pay an annual fee of \$35. MDARD Pesticide and Plant Pest Management (PPPM) staff mail annual fee notices to districts. It is the district's responsibility to prove to MDARD PPPM that 100% of their plant stock is Michigan-grown to receive the reduced fee.

Additionally, fees for inspection of plants and plant products are authorized by Michigan's Insect Pest and Plant Disease Act, Public Act 189 of 1931. Fees for nursery grower inspections include \$56 for the first acre and \$34 for each subsequent acre (yearly inspection). Fees for nursery dealer inspections include \$62 per hour of inspection time (inspection time includes time spent in preparation for the inspection, examining plants or plant products, setting up and taking down equipment, writing inspection documents, and discussing the inspection with the business; up to every other year inspections).

For more information on nursery grower, nursery dealer, and special inspections contact:

Andria McCubbin-Green, Acting Nursery Specialist  
Michigan Department of Agriculture and Rural Development  
P.O. Box 30017, Lansing, MI 48909  
mccubbingreena@michigan.gov  
517-599-5748

## **CHAPTER FOURTEEN TAXES & OTHER FORMS DISTRICTS MUST FILE**

### **Section 1: Employment Taxes**

#### *Federal Withholding Tax*

All employers must withhold federal income taxes from an employee's wage (based on their W-4), each time they're paid, and deposit these withholding taxes per appropriate schedule (monthly, semi-weekly) to the IRS via the Electronic Federal Tax Payment System (EFTPS), using the district's employer identification number (EIN). Employers also withhold *and match* social security and Medicare taxes (based on the current IRS tax rate) and deposit these taxes using EFTPS. On a quarterly basis, districts file Form 941, *Employer's Quarterly Federal Tax Return*, to EFTPS. Also, districts file Form W-3, *Transmittal of Wage and Tax Statements*, with copy A of the employee's W-2, to the Social Security Administration by January 31<sup>st</sup> each year. Additional information can be found at <https://www.irs.gov/payments/tax-withholding>. The employee and district will also retain a copy of the W-2; this form must be given to employees or postmarked by January 31<sup>st</sup>.

#### *State Withholding Tax*

All Michigan employers must withhold state taxes from an employee's wage (based on their MI-W4), each time they're paid, and pay withholding taxes (Form 5080; along with sales and use tax, see Section 2) per appropriate schedule (monthly, quarterly) to the State via the postal mail or Michigan Treasury Online (MTO; preferred). Additionally, Form 5081, *Sales, Use and Withholding (SUW) Taxes Annual Return*, must be submitted to the Michigan Department of Treasury by February 28<sup>th</sup> each year. Additional information can be found at <https://www.michigan.gov/taxes/0,4676,7-238-43519---,00.html>.

#### *Board Members*

Board members who receive per diem for their volunteer hours to the board, should be treated as employees of the district, thus federal and state withholding taxes must be withheld. Directors should complete both W-4 and MI-W4 forms and receive a W2 by January 31<sup>st</sup>.

#### *Unemployment Insurance Tax*

Districts do not pay federal unemployment tax assessment (FUTA) but do pay Michigan unemployment tax which is filed online through the Michigan Web Account Manager (MiWAM). Unemployment insurance is a form of social insurance, administered by Michigan's Unemployment Insurance Agency (UIA). It is designed to provide unemployment benefits to help workers replace some of their lost wages after they have

become unemployed through no fault of their own, such as by a layoff. Employers are required to file quarterly wage/tax reports listing their employees and the wages earned for each quarter even if there are no employees and/or wages to report for the quarter. Employers will receive their assigned rate by mail at the beginning of each calendar year. Additional information can be found at [https://www.michigan.gov/leo/0,5863,7-336-78421\\_97241---,00.html](https://www.michigan.gov/leo/0,5863,7-336-78421_97241---,00.html).

Quarterly filing is filed through MiWAM on or before the 25th day of the month following the end of the calendar quarter. A report is due for each calendar quarter even if a district had no covered workers, paid no wages during the quarter, or had no taxes due for the quarter. The due dates are:

- First Quarter - April 25
- Second Quarter - July 25
- Third Quarter - October 25
- Fourth Quarter - January 25

Alternately, UIA form 1028 can be mailed to:

Unemployment Insurance Agency  
Tax Office  
PO Box 33598  
Detroit, Michigan 48232-5598

### Contractors

Independent contractors of the district must complete Form W-9, *Request for Taxpayer Identification Number and Certification*, used to request the correct name and taxpayer identification number of the contractor (TIN; EIN or social security number). The W-9 should be kept in district files for four years for future reference in case of any questions from the worker or the IRS. Form 1099-MISC must be completed and provided to any contractors, by January 31<sup>st</sup>, who were paid \$600 or more for services provided during the year. Districts will also file a copy to the IRS by January 31<sup>st</sup>.

## **Section 2: Business Taxes**

### Sales and Use Tax

Businesses that sell tangible personal property to the final consumer need a sales tax license; most districts already have this license and should display it in the view of the public. Districts that sell tangible personal property (field guides, trees, etc.) to the final consumer are required to remit a 6% sales tax on the total price (which includes shipping and handling charges) of their taxable retail sales to the Michigan Department of Treasury.

Use tax is a companion tax to sales tax. Use tax of 6% must be paid to the State of Michigan on the total price (which includes shipping and handling charges) of all taxable

items brought into Michigan or purchases through the internet, by mail or by phone from out-of-state retailers that do not collect and remit sales or use tax from their customers.

Districts remit their SUW taxes using Form 5080 or MTO on their required schedule and file Form 5081 by February 28<sup>th</sup> each year (see Section 1 above).

### **Section 3: Sales Tax Exemption**

Michigan's conservation districts are tax exempt and do not pay sales tax on purchases of supplies and equipment. Since Department of Treasury auditors require proof of purchaser's exemption, a district should provide each of its suppliers with Form 3372, *Michigan Sales and Use Tax Certificate of Exemption*, which can be found at [https://www.michigan.gov/documents/taxes/3372\\_216612\\_7.pdf](https://www.michigan.gov/documents/taxes/3372_216612_7.pdf). See Appendix I for a frequently asked questions (FAQ) tax document.

Additionally, many customers at district tree sales, etc. are also tax exempt, therefore, they should be providing the district with their tax-exempt number or Form 3372, which districts should retain in their records.

## **CHAPTER FIFTEEN REPORTING REQUIREMENTS, RECORD RETENTION, AND DISPOSAL SCHEDULES**

### **Section 1: General Reporting Requirements**

MDARD is responsible for overseeing the activities and programs of conservation districts in Michigan. Specifically, CD Law states that:

- MDARD shall “review district budgets and financial information, including audit reports.”
- “The necessary expenses of any conservation districts shall be made from appropriations made for those purposes.”
- “The board shall furnish to the department (MDARD), upon request, copies of ordinances, rules, regulations, orders, contracts, forms, and other documents that the board adopts or utilizes and any other information concerning the board’s activities that the department may require in the performance of its duties under this part.”

As such, conservation districts are expected to maintain adequate records and submit to MDARD the following information when requested:

- Full audit reports
- Budgets and appropriation acts
- Approved regular and special board meeting minutes, including financial reports
- Election documentation (see Section 3 below and Chapter Seven)
- Any additional information concerning the board’s activities requested by MDARD

### **Section 2: MDARD Grant Eligibility and Reporting Requirements**

Conservation districts who receive, or want to be eligible to receive, a grant of \$50,000 or more from MDARD must submit the following to the MDARD Regional Coordinator and [MDA-ESD-Grants@michigan.gov](mailto:MDA-ESD-Grants@michigan.gov) mailbox:

- An approved budget for the current fiscal year (all grants require a budget, no matter the amount) setting forth the purpose and amount of the expenses to be incurred and the source and amount of revenue expected to be received
- Cover letter of a completed Generally Accepted Auditing Standards (GAAS) audit conducted by a certified public accountant (CPA) within the last two years **or** a letter of engagement specifying the audit will be conducted on the most recent completed fiscal year (due within six months of the start of the grant)

- Maintain accurate financial records or receipts and disbursements and uniform accounting procedures in accordance with generally accepted accounting principles under procedures prescribed by MDARD

Additional reporting requirements typically include (full details will be included in grant agreement language):

- Accomplishment of grant deliverables, program goals, and employee development plan (EDP; forms provided by MDARD)
- Approved regular and special board minutes (within 15 days of approval)
- Accurate financial reporting of grant profit and loss (P/L report from QuickBooks)

### **Section 3: Retention and Disposal Schedule**

#### **Background on Public Records**

Public records are the property of the people of the State of Michigan. As a result, Michigan government agencies and local units of government are responsible for ensuring that the public records they create and receive while conducting public business are retained and destroyed in accordance with Michigan law. Records Management Services (RMS) is responsible for assisting local government agencies with addressing records management and preservation issues. Local governments seeking assistance with their records management and preservation concerns may contact:

Records Management Services  
Department of Technology, Management and Budget  
3400 N. Grand River Ave. Lansing, Michigan 48909  
(517)335-9132 (phone) or (517)321-3408 (fax)  
<http://www.michigan.gov/recordsmanagement/>

While there are various laws that require Michigan government agencies to employ sound records management practices, they often find that good records management is also a good business practice. Almost every business process employs records, and agencies need to ensure that these records are managed in an effective and an efficient manner. Good record management can save conservation districts time and space (resources that are frequently in short supply for most offices).

Records can exist in a wide variety of formats, including paper, maps, photographs, digital images, e-mail messages, databases, etc. The retention periods defined within general schedules do not specify the format that the record may exist in, because each government agency that follows this schedule may choose to retain its records using different recording media. Local government agencies are responsible for ensuring that their records are properly retained and remain accessible during this entire retention period.

The Michigan Freedom of Information Act (FOIA; Public Act 442 of 1976, as amended), defines public records as recorded information “prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created”.

Two laws provide that local government records belong to the people of Michigan:

- Section 491 of the Michigan Penal Code (MCL 750.491) declares that all official books, papers, and records created by (or received in) any office or agency of the political subdivisions of the state of Michigan are considered public property, belonging to the people of the state. There are established misdemeanor penalties for disposing of records without the authorization of an approved Retention and Disposal Schedule. Government agency directors are responsible for ensuring that relevant staff are aware of the provisions in the schedule and follow them. The Records Management Services does not audit agencies and assess penalties. However, courts may penalize agencies for failing to follow an approved Retention and Disposal Schedule.
- Section 5 of the Michigan Historical Commission Act (MCL 399.811) provides that all records required to be kept by local public officers in the discharge of their duties, records required to be filed in local public offices, and records which represent memorials of transactions of local public officers, are considered to be property of this state.

Michigan law requires that all records be listed on an approved retention and disposal schedule that identifies how long the records must be kept, when they may be destroyed, and when certain records can be placed in permanent preservation. There are two types of schedules that local government agencies may use:

- General Schedules: cover records that are common to a local government agency. General schedules may not address every single record that an agency may have in its possession. General schedules do not mandate that any of the records listed on the schedule be created. However, if they are created in the normal course of business, the schedule establishes a minimum retention period for them.
- Agency-Specific Schedules: cover records that are unique to a local government agency. Agency-specific schedules always override general schedules if a record is covered on both. Agency-specific schedules only address the records of the agency named on the schedule and may not be used by another agency. The retention periods are absolute minimums and maximums.

Local governments must create agency-specific schedules to cover any records that are not listed on a general schedule. They should be approved by the district board. Local situations may require retention beyond the periods listed, and nothing prevents an office from retaining records longer than the specified period of time.

## Confidential Records Destruction

Some public records contain sensitive or confidential information. These records should not be placed in a regular trash or recycle bin when they are eligible to be destroyed. It is important that government agencies ensure that these records be destroyed in a manner that prevents the inappropriate release of the information.

Note: Agencies must immediately cease the destruction of all relevant records (even if destruction is authorized by an approved retention and disposal schedule) if they receive a FOIA request, if they believe that an investigation or litigation is imminent, or if they are notified that an investigation or litigation has commenced. Failure to cease the destruction of relevant records could result in penalties.

The retention and disposal schedule for district elections is as follows:

- Certificate of election results – PERMANENT
- MDARD email certifying the election – PERMANENT
- Director petitions –5 YEARS
- Director oath of office – 5 YEARS
- Newspaper notification – 6 MONTHS
- All election ballots and voter registration and qualification forms – 6 MONTHS (SEALED)

The retention and disposal schedule for district business is as follows:

- Historical documents, including board minutes, history of the district, correspondence relative to the district's organization – PERMANENT
- Five-year long-range plans, annual reports, annual business plans – PERMANENT
- Job descriptions and work agreements – PERMANENT
- Financial reports and records, including audit findings, bills paid, bank statements, tax records, social security and other withholding documents, journal ledgers, payroll records, grant agreements – FIVE YEARS

## Records Scanning Services

The Records Reproduction Act (MCL 24.401 406) authorizes the reproduction of public records by Michigan government agencies. Agencies that want to destroy original documents and use their digital images as their official record must create their images according to the State of Michigan's standards. These standards, and accompanying best practice documents, are available on the RMS website.

## Confidential Records Destruction

Some public records contain sensitive or confidential information. These records should

not be placed in a regular trash or recycle bin when they are destroyed. Districts must ensure that these records are destroyed in a manner that prevents the inappropriate release of the information. RMS administers a contract with a vendor, Rapid Shred, that complies with the state's requirements for confidential destruction of records. Local governments can use this contract (contract #071B7700160) via MiDEAL at [https://www.michigan.gov/dtmb/0,5552,7-358-82550\\_85753---,00.html](https://www.michigan.gov/dtmb/0,5552,7-358-82550_85753---,00.html).

## **CHAPTER SIXTEEN CONSERVATION DISTRICT FUNDING**

### **Section 1: Identifying Conservation District Funding Needs**

For a conservation district to be effective in carrying out vital programs and aligning with its five-year long-range plan, it must be able to successfully attain the proper level of funding. The district must commit itself to securing funding from a diversified collection of sources to maintain an adequate operations budget in difficult economic times.

District funding sources may include:

- State appropriations
- County and other local governmental appropriations
- Public and private grants
- Local income-generating projects
- Donations
- Other sources such as fees for services or equipment rentals

The first step in district funding is to define the district's needs by examining the five-year long-range plan. By examining these planned programs, projects and activities from a budgetary standpoint, a major portion of a district's financial needs can be identified. Funding sources may vary greatly depending on the diversity of programs being developed by the district and sources available during current economic times. Additionally, the plan can also be used to identify potential funding sources through cooperating partners and sponsors.

### **Section 2: Leveraging Funding**

Conservation districts are encouraged to leverage their funding with other resources from local, state, federal, and non-governmental partners. A diverse fundraising strategy uses partner support to leverage new dollars. Long-term planning, diversified funding, and leveraged partnerships creates sustainability and transitions conservation districts from surviving to thriving. Diversified funding leads to operational security; if a funding source is lost, the district remains stable.

Exploring ways to use collaboration as a means of leveraging resources (dollars, staff time) to achieve measurable impacts and outcomes is something conservation districts do best. Leveraging funding should be a well thought out process. Districts can achieve this by coordinating with partners to identify shared projects, funding, and other resources by linking to the goals of the district's five-year long-range plan.

When collaborating on multiple proposals for the same project, districts increase the odds of getting grant funding. However, if more than one proposal is funded, districts may need to:

1. Expand initial goals, increase the number of individuals or projects served, or amend the budget to reflect how to reallocate dollars to improve impacts,
2. Extend the timeline to cover expenses beyond the proposed timeframe, or
3. Reallocate funds to a similar program/project that aligns with the grantor's priorities

### **Section 3: County Resources**

A districts relationship with county government is a key factor in obtaining local resources and this partnership can benefit a district in several ways:

- Providing office space, equipment, and supplies
- Appropriating funds for district programs and operations
- Partnering on projects, including providing match and letters of support for grant proposals
- Placing millage proposals on even-year ballots

The district should identify projects and goals within the district's conservations needs assessment and five-year long-range plan that correlate with the county goals and objectives in their master plan. Obtaining the county's master plan is a great way to understand the county's natural resource concerns and to identify ways the district can help solve these issues. And, often, county commissioners do not know that districts are already implementing projects that address some of their natural resource concerns and priorities.

#### **County Commissioner Liaison**

It is recommended that districts designate a director to be a liaison between the county commissioners/administrator and the district board. The liaison's purpose is to advocate for the district and share accomplishments; this can be accomplished by attending county commission meetings to provide brief updates/reports and by inviting a commissioner(s) to attend district board and annual meetings, other events, and to show conservation projects in the field. By effectively reporting on conservation goals and objectives and showcasing conservation district accomplishments, the board liaison creates a solid argument for requesting county funds for the district.

### **Section 4: Public and Private Resources**

State, federal, and private funds are available to districts, including grants, agreements, and contracted services, equipment, and vehicles. Grant opportunities/providers include, but are not limited to:

- Grants.gov
- Partner websites: EGLE, DNR, MDARD, USFS, USFWS, NOAA, NACD (see Appendix B for acronym list)

- Great Lakes Fishery Trust
- Sustain our Great Lakes
- National Fish and Wildlife Foundation
- Freshwater Future
- DTE Energy Foundation
- Council of Michigan Foundations
- Regional wildlife groups

## **Section 5: Negotiated Indirect Cost Rate Agreement**

Typical indirect funds associated with grants is 10% of the total grant award. Districts could consider securing a federal Negotiated Indirect Cost Rate Agreement (NICRA) which reflects the estimate of indirect cost rate negotiated between the federal government and the district and determines the indirect costs (facilities and administrative costs) and fringe benefit expenses incurred by an organization. A district would apply to its cognizant agent; the cognizant agent is the federal agency that provides the most funding. An established NICRA would allow a district to receive a higher indirect rate for all federal grants during the approval period. The NICRA does need to be renewed (often annually). See <https://www.dol.gov/sites/dolgov/files/OASAM/legacy/files/DCD-2-CFR-Guide.pdf> for more information.

## **Section 6: Donations and Sponsorships**

According to CD Law, districts may “accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies or from this state or any of its agencies, and to use or expend the money, services, materials, or other contributions on its operations; and to accept money, gifts, and donations from any other source”.

Donations are generally considered funds given to a district as a general gift or contribution, although they may be designated for specific uses by the donor. In contrast, sponsorships involve a group or agency outside of the district providing some form of financial support for a specific district-coordinated activity, project, or event while not being necessarily responsible for the activity or project themselves. Both donations and sponsorships may include actual funds, services, materials, or other forms that have value to either the donor/sponsor and/or the district.

When accepting donations, districts should familiarize themselves with IRS Code, Section 170(c)(1), which states that “contributions or gifts to a state or any of its political subdivisions are ‘charitable’ contributions for tax purposes, and are, therefore, tax deductible” (see Appendix I). Donor requirements include:

- No deduction will be allowed under Section 170 of the Internal Revenue Code for any charitable contribution of \$250 or more unless the donor has contemporaneous written substantiation from the district.

- The substantiation must be "contemporaneous", meaning the district must provide the donor with the written substantiation no later than the date the donor actually files a return for the tax year. There is no prescribed format, however a signed letter on district letterhead thanking the donor as well as the amount and/or items or property donated to the district should be returned to the donor upon receipt of the donation.
- If the district has provided goods or services to the donor, in exchange for making the contribution, the contemporaneous written acknowledgement must include a good faith estimate of the value of such goods and services.
- The responsibility for obtaining the substantiation lies with the donor, who must request it from the conservation district. However, the district should inform the donor of this requirement, as a courtesy.

### Bequests

Districts may accept gifts of real or personal property through bequest. Such gifts or property become the property of the district to be maintained and utilized as the district deems appropriate for its purposes or in accordance with any conditions of the bequest. Bequests containing conditions that require the district to perform functions for which it is not legally authorized should *not* be accepted. Bequests can be sold by the district if the donor agrees to allow for that sale prior to the bequest.

## **Section 7: Fee for Service and Sale of District Property**

### District Sales and Equipment Rentals

Many districts lease conservation equipment such as no-till and conservation tillage equipment, earth moving equipment, tree planting tools, and fencing equipment; this can provide districts an additional source of income. Equipment leasing requires the responsibility of maintenance and liability. Districts should understand and carry adequate liability insurance on all equipment. To ensure customers understand their responsibilities, districts should utilize an equipment liability release form to provide:

- Liability protections for both the district and customer
- Property damage protection for the district

Districts should also keep accurate records on district-owned property and equipment to reflect date of acquisition, initial cost, maintenance cost, income from rentals, and depreciation schedules.

### Sale of District-Owned Property and Equipment

District should advertise property and equipment sales through a public bid process to

ensure a fair market value as well as transparency and fairness. If the equipment or property was obtained through a grant, any additional grant requirements should be checked to ensure that there are no stipulations regarding the sale or disposal of the item.

### Pesticide Applicator License

Many districts have a pesticide applicator's business license (PABL) through MDARD, which requires an annual \$100 fee for renewal. This license is not required of districts who conduct pesticide applications only for grant deliverables. However, many districts keep this license active in order to provide a fee for service to customers or to work outside of a grant agreement. Commercial applicators or businesses that intend to apply pesticides for hire must also obtain a commercial pesticide applicator license.

Many district staff are commercial pesticide applicators; this certification is intended for use by individuals who apply a pesticide in the course of their employment or other business activity. In order to qualify, individuals must:

- Be 18 years of age or older
- Submit appropriate fee (\$75) and completed application
- Pass the commercial core exam and a minimum of one category exam, with a score of 70% or higher

Study materials can be downloaded from [https://www.canr.msu.edu/ipm/pesticide\\_education\\_safety/training\\_manuals/](https://www.canr.msu.edu/ipm/pesticide_education_safety/training_manuals/) or purchased from the local MSU Extension office. Exams are offered statewide with online scheduling at <https://www2.mda.state.mi.us/OPES/>. Certifications expire December 31<sup>st</sup> every third year with a renewal notice and information pertaining to requirements for renewal mailed approximately three months prior to the expiration date.

MDARD and MSU Extension developed a program to provide applicators with an optional method of renewing their certification (rather than testing); during the three year certification period, individuals may obtain credits towards their certification by attending pre-approved pesticide applicator training meetings, which can be found at <https://www2.mda.state.mi.us/schedule/schedule.html>.

### **Section 8: Fund Investment**

The Investments of Surplus Funds of Political Subdivisions Act (see Chapter Thirteen, Section 9) allows governing bodies to invest funds into a multitude of investment options. This allows a district to create a 'rainy day fund' and/or accrue interest revenue. District boards are encouraged to seek safe investments.

### **Section 9: Tree Sales**

Each spring and, sometimes, fall, Michigan's conservation districts conduct a conservation plant sale to offer a variety of high-quality, native seedlings, plugs, flowers and grasses, for erosion control, wildlife habitat, reforestation, windbreaks, and many other conservation purposes. Varieties generally include shrubs, deciduous and coniferous trees, aquatic plants, grasses, ground covers and wildflowers. Profits from these tree sales are an important revenue source for district operations.

### Statutory Requirements

The sale and distribution of nursery stock, plants, and plant products in Michigan is regulated by MDARD's Pesticide and Plant Pest Management (PPPM) Division under 'The Insect Pest and Plant Disease Act' (see Chapter 13, Section 17). The Act's provisions apply to conservation districts operating a nursery and those reselling nursery stock. Following are the minimum requirements:

#### 1. Districts Owning and Operating Nurseries

All nursery stock produced in Michigan must be certified by PPPM prior to its sale or movement. A certificate of inspection will be issued for nursery stock that meets inspection requirements, including freedom from insect pests, plant diseases, and regulated weeds. The timing of inspections will be based on the species of nursery stock grown and the life cycle of pests that are known to attack the plants. Growers must arrange for an inspection of their nursery stock, including herbaceous perennials, by contacting MDARD's Nursery Specialist. All nursery growers and dealers that purchase nursery stock must keep copies of shipping documents, including invoices and certificates of inspection, for a period of 36 months from the date of receipt.

#### 2. Districts Reselling Nursery Stock to Landowners

Districts that sell nursery stock must apply for, and renew, a dealer or registered dealer license and pay an annual fee through PPPM. PPPM will mail a license renewal form in late September/early October each year as licenses expire on October 31<sup>st</sup>. The nursery dealer fee, \$100, applies to portions of stock that are not Michigan grown. The registered nursery dealer fee, \$35, applies to stock that is 100% Michigan grown.

### Sales Tax

Tree seedlings sold for reforestation, erosion control, windbreaks, or wildlife are considered real estate improvements. Tree seedlings sold for those purposes are subject to Michigan sales tax. See Chapter 14, Section 2, for more information.

## **CHAPTER SEVENTEEN TECHNOLOGY INFORMATION FOR DISTRICTS**

### **Section 1: The Common Computing Environment**

In 2000, congressional appropriations allowed for the technological modernization of USDA service center offices across the country. The central fund, referred to as the Common Computing Environment (CCE), provided for common computers and software, high speed internet connections, common email, and a shared local office computer network in USDA Natural Resources Conservation Service (NRCS) offices.

District offices that are co-located with NRCS are provided with the opportunity to access USDA workstations and the USDA computer network. Districts with computers on the USDA network benefit from a number of advantages that the network offers, including access to:

- USDA IT staff for computer technical support
- USDA developed AgLearn training courses
- USDA developed or licensed software, including Microsoft Office programs

Districts that are not co-located with a USDA service center may have their compatible computers joined to the CCE network and use the benefits listed above using a VPN encrypted connection through a cable modem, DSL or other high-speed Internet connection. Requests for use of a VPN connection may be forwarded to the NRCS state office by your NRCS District Conservationist.

### **Section 2: Purchasing Computers**

Districts that purchase USDA computers with the intention of accessing the network are strongly recommended by the USDA to purchase machines from a vendor whose products are fully guaranteed to be compatible with USDA network specifications. More information on purchases can be found at <https://www.nacdnet.org/membership-resources/computers-for-districts/>.

If a district chooses to purchase a non-USDA computer, USDA may or may not provide technical support to that PC or the support could be limited if the machine is incompatible with software specifications. In addition, any hardware failures would be subject to the manufacturer's warranty only, and not be eligible for USDA technical support. The USDA helpdesk is equipped to handle any issue for USDA-purchased PC's.

It is also important to note that since 2007, Congress has not appropriated a separate central fund to continue the financial support of the USDA network infrastructure. Although NRCS has continued to support existing computers - including those assigned to district employees - these arrangements vary by state and by individual conservation

district needs.

Additional questions may be directed to the NRCS District Conservationist (DC) or to the NRCS Michigan State Office IT Specialist at (517) 324-5164.

### **Section 3: Obtaining Access to the USDA Network**

District personnel who wish to connect their computer to the USDA network need to first complete a background investigation before gaining access; the cost of the security background investigation is the responsibility of the district.

Additionally, district staff must complete the Information Systems Security Awareness Training (ISSA) and assessment prior to being allowed access. Assessments must be submitted along with the security background investigation materials. New users must also register for a level two (2) eAuthentication account and an AgLearn account. Once completed, the new user will be issued a System Authorization Accept Request (SAAR) ticket for a computer login and an email account.

Requests to obtain access to the USDA network for conservation district staff are to be forwarded to the Michigan USDA-NRCS State Office by the local DC.

Questions may be directed to the NRCS Michigan's ISSA Point of Contact (IPOC), Jessica Modert, Human Resources Specialist, at:

USDA-NRCS Michigan State Office  
3001 Coolidge Road  
East Lansing, MI 48823  
Phone: (517) 324-5238  
Email: [jessica.modert@mi.usda.gov](mailto:jessica.modert@mi.usda.gov)

### **Section 4: MACD e-mail**

Conservation districts may set up e-mail accounts for directors and staff through the Michigan Association of Conservation Districts (MACD) by emailing their executive director.

## REFERENCES

Michigan Municipal League - <http://www.mml.org/home.html>

- Open Meetings Act, FOIA, and other pertinent laws/resources

Department of Attorney General - [https://www.michigan.gov/ag/0,4534,7-359-81903\\_20988\\_18160---,00.html](https://www.michigan.gov/ag/0,4534,7-359-81903_20988_18160---,00.html)

- Open Meetings Act and FOIA handbooks

History of NRCS -

[https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/about/history/?cid=nracs143\\_021392](https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/about/history/?cid=nracs143_021392)

- Hugh Hammond Bennett

MiDeal Extended Purchasing Program - [https://www.michigan.gov/dtmb/0,5552,7-358-82550\\_85753---,00.html](https://www.michigan.gov/dtmb/0,5552,7-358-82550_85753---,00.html)

## APPENDIX A CONSERVATION DISTRICT LAW

CONSERVATION DISTRICT LAW  
Act 463 of 1998

STATE OF MICHIGAN 97TH LEGISLATURE  
REGULAR SESSION OF 2013

Introduced by Senator Booher

ENROLLED SENATE BILL No. 56

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people's right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 9301, 9302, 9304, 9307, 9308, and 9310 (MCL 324.9301, 324.9302, 324.9304, 324.9307, 324.9308, and 324.9310), sections 9301, 9302, 9304, 9308, and 9310 as amended by 1998 PA 463 and section 9307 as amended by 2004 PA 439, and by adding sections 51301, 51302, 51305, and 51306; and to repeal acts and parts of acts. Public Act No 114 of 2013 to repeal acts and parts of acts" by amending section 9307 (MCL 324.9307), as amended by 2013 PA 45.

The People of the State of Michigan enact:

**(i) 324.9301 Definitions.**

Sec. 9301.

As used in this part:

- (a) "Agency of this state" includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.
- (b) "Board" or "conservation district board" means the governing body of a conservation district.
- (c) "Compliance assistance agent" means an individual who provides technical assistance to individuals, organizations, agencies, or others to aid them in complying with federal and state laws and local conservation ordinances.
- (d) "Conservation species" means those plant species beneficial for conservation practices as included on the list prepared under section 9304a by the conservation species advisory panel.
- (e) "Conservation species advisory panel" means the conservation species advisory panel created in section 9304a.
- (f) "Department" means the department of agriculture and rural development.
- (g) "Director" means 1 of the members of the conservation district board, elected or appointed in accordance with this part.
- (h) "District" or "conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with this part, for the purposes, with the powers, and subject to the restrictions set forth in this part.
- (i) "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.
- (j) "Landowner" includes any person who holds title to or has contracted to purchase any land lying within a district organized under this part or former 1937 PA 297.
- (k) "Person" means an individual, partnership, or corporation.
- (l) "Plant rescue" means to physically move native conservation species of plants from 1 location in Michigan to another location in Michigan for the purpose of reestablishing the native conservation species.
- (m) "Qualified forester" means that term as defined in section 51301.
- (n) "Resident" means a person who is of legal age to vote and can demonstrate residency in the district with 1 piece of identification.
- (o) "State" means this state.

(p) "United States" or "agencies of the United States" includes the United States of America, the natural resources conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999 ;-- Am. 2013, Act 45, Imd. Eff. June 6, 2013

(ii) **324.9302 Declaration of policy.**

Sec. 9302.

It is the policy of the legislature to provide for the conservation of the natural resources of the state, including soil, water, farmland, forestland, and other natural resources, and to provide for the control and prevention of soil erosion, and thereby to conserve the natural resources of this state, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999 ;-- Am. 2013, Act 45, Imd. Eff. June 6, 2013

(iii) **324.9303 Conducting business at public meeting; notice; availability of writings to public.**

Sec. 9303.

(1) The business that a conservation district board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, in addition to any other notice prescribed in this part.

(2) A writing prepared, owned, used, in the possession of, or retained by a conservation district board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999

324.9304 Additional duties and powers of department.

Sec. 9304.

In addition to the other duties and powers conferred upon the department under this part, the department has the following duties and powers:

(a) To offer such assistance as may be appropriate to the directors of conservation districts in implementing any of their responsibilities under this part and as otherwise provided by law.

(b) To keep the directors of each of the districts informed of the activities and experience of all other districts and to facilitate cooperation and sharing of advice and experience between the districts.

(c) To approve and coordinate the programs of all conservation districts.

(d) To secure the cooperation and assistance of the United States and any of its agencies, and the state and any of its agencies, in the work of the districts, and to formulate policies and procedures as the department considers necessary for the extension of aid in any form from federal or state agencies to the districts.

(e) To disseminate information throughout the state concerning the activities and programs of the conservation districts and to encourage the formation of districts in areas where their organization is desirable.

(f) To review district budgets and financial information, including audit reports.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999 ;-- Am. 2013, Act 45, Imd. Eff. June 6, 2013

(iv) **324.9304a Conservation species advisory panel; creation; membership; establishment of conservation species list.**

Sec. 9304a.

(1) The conservation species advisory panel is created within the department. The conservation species advisory panel shall consist of the following members selected by the director of the department and approved by the commission of agriculture:

(a) Two representatives of the department as follows:

(i) One individual from the pesticide and plant management division or its successor agency.

(ii) One individual from the environmental division or its successor agency.

(b) One individual representing the department of natural resources.

(c) One individual representing the natural resource conservation service.

(d) Two representatives from Michigan state university as follows:

(i) One individual from the department of horticulture or its successor department.

- (ii) One individual from the department of forestry or its successor department.
- (e) One individual representing conservation districts.
- (f) One individual from a statewide organization representing nursery and landscaping interests in the state.
- (g) One individual from a statewide organization representing seedling growers' interests in the state.
- (2) By December 1 of each year, the conservation species advisory panel shall establish a list of conservation species for the following calendar year that may be propagated, planted, harvested, sold, or rescued as part of a plant rescue operation. However, conservation species on this list that are propagated, planted, or rescued during that calendar year may be sold, removed, or reestablished in subsequent years even if the species is removed from the list in a subsequent year.

**History:** Add. 1998, Act 463, Imd. Eff. Jan. 4, 1999

**(v) 324.9305 Boundaries; petition to change district's name.**

Sec. 9305.

- (1) Boundaries of conservation districts shall include cities, townships, and incorporated villages.
- (2) A conservation district's board may petition the department to change the district's name. The petition form shall be provided by the department. The department shall give due consideration to the petition and, if the request is determined to be needed and practical, shall approve the change in name and request the secretary of state to enter the new name in the secretary of state's official records of the district.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999

**(vi) 324.9307 Conservation district board; directors; chairperson; terms; annual meeting; election; notice; vacancies; certification; special election; quorum; expenses; employees; legal services; delegation of powers and duties; copies of documents; duties of board; eligibility for grant; duties of professional forester; rules; duties of conservation district; removal of director; designation and function of legislative representative.**

Sec. 9307.

- (1) A conservation district board shall consist of 5 directors elected or appointed as provided in this part. The board shall designate a chairperson annually.
- (2) Except as provided in subsection (6), the term of office of each director is 4 years. Except as otherwise provided in this section, all directors shall be elected at an annual meeting by residents of the district. The election shall be nonpartisan and the directors shall be elected by the residents of the district at large. To become a candidate for director, at least 60 days prior to the annual meeting, an individual shall file at the district office a petition signed by 5 residents of the district. A candidate must be a resident of the district. The annual meeting shall be held at a date determined by the board. Notice of the annual meeting shall be published in the official newspaper of record for the area in which the district is located at least 45 days prior to the date of the annual meeting. This notice shall include the date, time, and location of the annual meeting, an agenda of items to be considered at the meeting, and a list of all candidates for directors of the district. A resident of a district who is unable to attend the annual meeting may vote for the directors of the district by absentee ballot as follows:
  - (a) In person at the district office, during regular business hours of the district office, at any time after publication of the notice and prior to the annual meeting.
  - (b) By mail received at the district office at any time after publication of the notice and prior to the annual meeting.
- (3) Following the annual meeting, director elections shall be certified by the department. A director shall hold office until a successor has been elected and qualified. Vacancies shall be filled by appointment by the board until the next annual meeting.
- (4) The department shall notify the district of its determination on election certification within 90 days after the election. If the department does not certify the director election, the board shall call a special election. The procedures for the special election shall be the same as those for an election at the annual meeting. However, if the board received notification that the department would not be able to certify the director elections from a special election at least 120 days before the next annual meeting, the vacancies shall be filled at the next annual meeting.
- (5) A majority of the directors constitutes a quorum of the board, and the concurrence of a majority in any matter within their duties is required for the board's determination. A director is entitled to expenses, including traveling expenses necessarily incurred in the discharge of his or her duties. A director may be paid a per diem for time spent undertaking his or her duties as a director.
- (6) If at any time the board has an insufficient number of directors to constitute a quorum, the department shall appoint directors to fill the vacancies on the board. The appointed directors shall serve until new

directors are elected as provided for in this section at the next annual meeting and the election is certified by the department. However, new directors who are elected to fill vacancies shall serve for the remainder of the vacated terms.

(7) The board may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as the board may require, and shall determine their qualifications, duties, and compensation. Upon request of the board, the attorney general may, at his or her discretion, provide legal services to the district. The board may delegate to its chairperson, to 1 or more directors, or to 1 or more agents or employees any powers and duties that the board considers proper. The board shall furnish to the department, upon request, copies of ordinances, rules, regulations, orders, contracts, forms, and other documents that the board adopts or utilizes and any other information concerning the board's activities that the department may require in the performance of its duties under this part.

(8) The board shall do all of the following:

(a) Provide for the execution of surety bonds for all district employees and officers who are entrusted with funds or property.

(b) Provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted.

(c) Determine the fiscal year of the district.

(9) To be eligible for a grant of \$50,000.00 or more from the department, a district shall do all of the following:

(a) Annually submit to the department a budget setting forth the purpose and amount of the expenses expected to be incurred and the source and amount of revenue expected to be received during the ensuing fiscal year.

(b) Maintain accurate financial records of receipts and disbursements and uniform accounting in accordance with generally accepted accounting principles under procedures prescribed by the department.

(c) Provide for a biennial independent certified audit by a certified public accountant of the financial records, accounts, and procedures of the district. The audit report shall show profits and losses and the financial condition of the district.

(d) Agree to comply with subsection (10), and agree to return any grant funds received if subsection (10) is violated.

(10) A professional forester employed under a grant described in subsection (9) shall not use his or her position to do either or both of the following:

(a) Compete with a private sector business.

(b) Develop a client base for forestry consultation during hours when he or she is not employed by the district.

(11) The department may promulgate rules to implement subsection (9). However, rules promulgated under this subsection shall remain in effect not later than June 11, 2016.

(12) The board is responsible for the exercise of the powers and the performance of the duties of a conservation district under this part.

(13) Any director may be removed by the department upon notice and hearing for neglect of duty or malfeasance in office, but for no other reason.

(14) The board may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the board on all questions of program and policy that may affect the property, water supply, or other interests of the municipality or county.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Eff. June 1, 1999 ;-- Am. 2002, Act 107, Imd. Eff. Mar. 27, 2002 ;-- Am. 2004, Act 439, Imd. Eff. Dec. 21, 2004 ;-- Am. 2013, Act 45, Imd. Eff. June 6, 2013 ;-- Am. 2013, Act 114, Imd. Eff. Sept. 24, 2013

(vii) **324.9308 Powers of district and board generally; restrictions.**

Sec. 9308.

(1) A conservation district organized under this part constitutes a governmental subdivision of this state and a public body corporate and politic, exercising public powers, and a conservation district and the conservation district board has all of the following powers, in addition to powers otherwise granted in this part:

(a) To conduct surveys, investigations, and research relating to the conservation of farmland, forestland, and natural resources, to publish the results of the surveys, investigations, or research, and to disseminate that information upon obtaining the consent of the landowner or the necessary rights or interest in the lands. In order to avoid duplication of research activities, a district shall not initiate any research program except in cooperation with the government of this state or any of its agencies or with the United States.

(b) To conduct demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction of the lands, and on any other lands within the district upon obtaining the consent of the owner of the lands or the necessary rights or

interest in the lands, to demonstrate by example the means, methods, and measures by which farmland, forestland, and natural resources may be conserved and soil erosion in the form of soil blowing and soil washing may be prevented and controlled.

(c) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and other measures to achieve purposes listed in declaration of policy, on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction of the lands, and on any other lands within the district upon obtaining the consent of the landowners or the necessary rights or interests in the lands.

(d) To cooperate or enter into agreements with and, within the limits of appropriations made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any landowner within the district or his or her designated representative, in the conducting of erosion-control and prevention operations within the district, subject to conditions as the directors consider necessary to advance the purposes of this part.

(e) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests in property; to maintain, administer, and improve any properties acquired, to receive income from the properties, and to expend income in carrying out the purposes and provisions of this part; and to sell, lease, or otherwise dispose of any of its property or interests in property in furtherance of the purposes and provisions of this part.

(f) To make available, on the terms it prescribes, to landowners or their designated representatives within the district and to other conservation districts, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and other material or equipment that will assist landowners or their designated representatives to carry on operations upon their lands for the conservation of farmland, forestland, and natural resources and for the prevention and control of soil erosion.

(g) To engage in plant rescue operations and to propagate, plant, harvest, and, subject to section 9304a, sell only conservation species. A conservation district that violates this subdivision is subject to a civil fine of not more than \$100.00 per day of violation. An action to enforce this subdivision may be brought by the state or a county in the circuit court for the county in which the conservation district is located or in which the violation occurred.

(h) To provide technical assistance to other conservation districts.

(i) To construct, improve, and maintain structures as may be necessary or convenient for the performance of any of the operations authorized in this part.

(j) To develop comprehensive plans for the conservation of farmland, forestland, and natural resources and for the control and prevention of soil erosion within the district or other conservation districts. The plans shall

specify, in such detail as is possible, the acts, procedures, performances, and avoidances that are necessary or desirable for the effectuation of the plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish the plans and information described in this subdivision and bring them to the attention of residents of the district.

(k) To take over, by purchase, lease, or otherwise, and to administer any farmland, forestland, or natural resource conservation project located within its boundaries undertaken by the United States or any of its agencies or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies or of this state or any of its agencies, any farmland, forestland, or natural resource conservation project within its boundaries; to act as agent for the United States or any of its agencies or for this state or any of its agencies in connection with the acquisition, construction, operation, or administration of any farmland, forestland, or natural resource conservation project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies or from this state or any of its agencies, and to use or expend the money, services, materials, or other contributions in carrying on its operations; and to accept money, gifts, and donations from any other source not specified in this subdivision.

(l) To sue and be sued in the name of the district; to have a seal that is judicially noticed; to have perpetual succession unless terminated as provided in this part; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; and to make, and from time to time amend and repeal, rules and regulations in a manner that is not inconsistent with this part to carry into effect its purposes and powers.

(m) To borrow money for facilities or equipment for conservation purposes and pledge the assets of the district as collateral against loans. Any money borrowed shall be solely the obligation of the conservation district and not the obligation of the state or any other public entity in the state.

(n) As a condition to the extension of any benefit under this part to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the directors may require contributions in money, services, materials, or otherwise to any operation conferring the benefits, and may require

landowners to enter into and perform agreements or covenants as to the permanent use of the lands that will tend to prevent or control erosion on those lands.

(o) To act as a compliance assistance agent for other federal, state, and county laws.

(p) To act as the enforcing agency for a county if designated under section 9105.

(q) To collaborate with the department in reviewing applications for exemption as qualified forest property under section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].

(r) Subject to subsection (2), in cooperation with the department, to evaluate nonindustrial private forestlands.

(s) Subject to subsection (3), to provide landowners any of the following:

(i) Technical assistance regarding potential environmental, ecological, and economic benefits of forestry, wildlife habitat, and wetland development and restoration.

(ii) Contact information for qualified foresters.

(iii) Contact information for other forest resource professionals that may have voluntarily provided information to the department.

(2) Except as otherwise provided in this subsection, a conservation district shall not develop management plans for nonindustrial private forestlands. A district shall provide a landowner upon request with a list of qualified foresters to develop management plans. The list shall be developed and maintained by the department. If requested by a landowner, the conservation district shall post on its website notice that the landowner is seeking forest management plan preparation; timber harvesting, marketing, or thinning; or similar services. If, after the notice is posted for at least 30 days on the conservation district's website, a landowner is unable to identify a private forester willing to develop a forest management plan, the conservation district may, upon approval by the department, prepare a forest management plan for the landowner.

(3) The exercise of powers under subsection (1)(s) does not affect the regulatory authority of any state department.

(4) Unless authorized by the county board of commissioners of each county in which a conservation district is located, a conservation district shall not enforce state or federal laws.

(5) Unless otherwise specifically provided by law, provisions with respect to the acquisition, operation, or disposition of property by other public bodies are not applicable to a district organized under this part.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999 ;-- Am. 2013, Act 45, Imd. Eff. June 6, 2013

(viii) **324.9309 Cooperation between districts.**

Sec. 9309.

The directors of any 2 or more districts organized under this part may cooperate with one another in the exercise of any or all powers conferred in this part.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995

(ix) **324.9310 Cooperation of state agencies; agreements.**

Sec. 9310.

(1) Agencies of this state that have jurisdiction over, or are charged with the administration of, any state owned lands, and agencies of any county or other governmental subdivision of the state that have jurisdiction over, or are charged with the administration of, any county owned or other publicly owned lands, lying within the boundaries of any conservation district, shall cooperate to the fullest extent with the district in the effectuation of programs and operations undertaken by the district under this part. Agents of the district shall be given free access to enter and perform work upon such publicly owned lands.

(2) A conservation district may cooperate with and enter into agreements with a county, township, municipality, or other subdivision of state government in implementing soil, water, forestland, and related land-use projects. A county, township, municipality, or other subdivision of state government through its governing body may cooperate with and enter into agreement with a conservation district in carrying out this part and may assist a district by providing it with such materials, equipment, money, personnel, and other services.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999 ;-- Am. 2013, Act 45, Imd. Eff. June 6, 2013

(x) **324.9312 Revision of boundaries; procedure.**

Sec. 9312.

(1) One or more conservation districts may petition the department for a revision in the boundaries of 1 or more conservation districts. The department shall not take action on the petition unless it is signed by a

majority of the directors of each of the districts involved in the proposed revision. Within 30 days after receipt of a proper petition, the department shall cause notice of hearing to be given to the residents in the area or areas affected by the proposed revision as identified by the directors of a district and within 60 days hold a hearing to receive comments relative to the proposed change.

(2) The department shall determine if the proposed revision as petitioned for is desirable. If it finds in the affirmative, the department shall issue an order that states that the boundaries of the districts are to be moved, merged, consolidated, or separated at a date specified in the order and includes the name and the revision of the boundaries of the revised district or districts.

(3) Upon transmission of the order to the secretary of state, a certificate of due organization under seal of the state shall issue, if necessary, to the directors of the district as provided in this part. The revised district or districts shall have the same powers, duties, and functions as other districts organized under this part.

(4) The department shall appoint the first board of directors of the revised district, 1 of whom shall be appointed for a term of 1 year, 2 for a term of 2 years, and 2 for a term of 3 years. Thereafter, directors shall be elected as provided in section 9307.

(5) All assets, liabilities, records, documents, writings, or other property of whatever kind of the districts of which the consolidated district is composed shall become the property of the consolidated district, and all agreements made by, and obligations of, the former districts shall be binding upon and enforceable by the consolidated district. At the date specified in the department's order, the districts of which the consolidated district is composed shall cease to exist, and their powers and duties shall cease after that date. The consolidated district shall be governed by this part.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999

(xi) **324.9313 Appropriations.**

Sec. 9313.

The necessary expenses of any conservation districts shall be made from appropriations made for those purposes.

**History:** Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999

(xii) **324.51301 Definitions.**

Sec. 51301.

As used in this part:

(a) "Conservation district" means that term as it is defined in section 9301.

(b) "Demonstration project" means a forest improvement project designed to illustrate the implementation and impact of alternate forest practices.

(c) "Commission" means the commission of agriculture and rural development.

(d) "Department" means the department of agriculture and rural development.

(e) "Director" means the director of the department or his or her designee.

(f) "Follow-up work" means forest practices to promote the survival of seeds or seedlings or the protection or enhancement of other work previously undertaken under this part.

(g) "Forest improvement project" means any of the following:

(i) Production, processing, handling, storage, marketing, or transportation of forest resources, including sawmills, hardboard mills, power stations, warehouses, air and water pollution control equipment, and solid waste disposal facilities.

(ii) Forest practice or follow-up work.

(iii) Study, planning, or other work intended to improve forestlands or forest resources or to demonstrate means of improving forestlands or forest resources.

(h) "Forest management plan" means that term as it is defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].

(i) "Forest practice" means that term as it is defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].

(j) "Forest resources" means those products, uses, and values associated with forestland, including recreation and aesthetics, fish, forage, soil, timber, watershed, wilderness, and wildlife.

(k) "Forestland" means a tract of land that may include nonproductive land that is intermixed with productive land that is an integral part of a managed forest and the owner of which agrees to develop, maintain, and actively manage the land as a private forest through planting, natural reproduction, or other silvicultural practices. Forestland includes land from which forest tree species have been removed and have not been restocked, but does not include land converted to uses other than the growing of forest tree species or land currently zoned for uses incompatible with forest practices.

(l) "Fund" means the private forestland enhancement fund created in section 51305.

(m) "Harvest" means that term as it is defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].

(n) "Landowner" means a person who holds an ownership interest in nonindustrial private forestland.

(o) "Nonindustrial private forestland" means a privately owned tract of land consisting of 20 or more acres, or the timber rights in the land if the timber rights have been severed, that has the productive capacity to grow on average not less than 20 cubic feet per acre per year and that meets either of the following conditions:

(i) For a tract of land that contains less than 40 acres, at least 80% of the land is occupied by forest tree species.

(ii) For a tract of land that contains 40 or more acres, at least 50% of the land is occupied by forest tree species.

(p) "Qualified forester" means that term as it is defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].

(q) "Technical assistance" means direct on-site assistance provided to individuals.

(r) "Timber" means wood growth, mature or immature, growing or dead, standing or down. Timber does not include any of the following:

(i) Christmas trees and associated greens.

(ii) Material harvested from an individual's own land and used on that land for the construction of fences or buildings or for other personal use.

(s) "Timber owner" means a person who holds an ownership interest in species of forest trees on forestland. An ownership interest includes a license or other right to harvest timber on state lands.

**History:** Add. 2013, Act 45, Imd. Eff. June 6, 2013

Compiler's Notes: Former MCL 324.51301, which pertained to designation of tract of land as private forest reservation, was repealed by Act 378 of 2006, Eff. Sept. 1, 2007.

(xiii) **324.51302 Management and utilization of private forestland and private forest resources; purpose and intent of part.**

Sec. 51302.

(1) This part is intended to stimulate improved management and utilization of private forestland and private forest resources within this state. Economic and community development opportunities based on the private forest resource will be enhanced by ensuring adequate future high-quality timber supplies, increased employment opportunities, a diversified economy, and other economic benefits and the conservation, maintenance, and enhancement of a productive and stable forest resource system for the public benefit of present and future generations.

(2) The primary purpose of this part is to assist private landowners in understanding the value of forest resources and the potential threats to forest resources and to provide management guidance.

(3) The department may enter into cooperative agreements with the federal agencies that have been given authority by act of congress for the management of forestlands to assist landowners in management of their nonindustrial private forestlands.

**History:** Add. 2013, Act 45, Imd. Eff. June 6, 2013

Compiler's Notes: Former MCL 324.51302, which pertained to number of trees planted on acre of land as subject to part, was repealed by Act 378 of 2006, Eff. Sept. 1, 2007.

(xiv) **324.51305 Private forestland enhancement fund.**

Sec. 51305.

(1) The private forestland enhancement fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund, including general fund/general purpose appropriations, gifts, grants, and bequests. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall be the administrator of the fund for auditing purposes.

(5) The department shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

(a) Direct assistance.

(b) Indirect assistance.

(c) Administrative costs.

- (6) The department shall establish criteria and procedures for approving proposed expenditures from the fund.
- (7) The department of treasury shall, before November 1 of each year, notify the department of the balance in the fund at the close of the preceding fiscal year.
- (8) As used in this section:
  - (a) "Administrative costs" includes, but is not limited to, costs incurred in administering the qualified forest program developed in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].
  - (b) "Direct assistance" includes, but is not limited to, programs that will provide for any of the following:
    - (xv) Programs devoted to nonindustrial private forestland to encourage the judicious management of forestlands to maximize economic and ecological value.
      - (xvi) Incentive and cost-share programs to assist landowners.
      - (xvii) Programs that enhance investment of private and federal funds in sustainable forest management.
      - (xviii) Other programs established pursuant to this part.
    - (c) "Indirect assistance" includes, but is not limited to, programs that will provide for any of the following:
      - (i) Public education and demonstration programs on sustainable management of private forestland for increasing value for wildlife habitat or timber management, or both.
      - (ii) Educational programs.
      - (iii) Technical assistance programs.
      - (iv) The promotion of on-site evaluation systems and management practices.

**History:** Add. 2013, Act 45, Imd. Eff. June 6, 2013

Compiler's Notes: Former MCL 324.51305, which pertained to stocking forest trees under rules of department, was repealed by Act 378 of 2006, Eff. Sept. 1, 2007.

(xix) **324.51306 List of qualified foresters; preparation; maintenance; registration; removal; publication on department's website.**

Sec. 51306.

- (1) The department shall prepare and maintain a list of qualified foresters in the state.
- (2) An individual who wishes to be included on the list of qualified foresters shall submit a registration to the department on a form prepared by the department. The registration form shall include all of the following:
  - (a) The category of qualified forester for which the individual meets the necessary requirements.
  - (b) The continuing education required for the individual to maintain his or her status as a qualified forester, including the date on which the continuing education is required to be completed.
  - (c) A place for an individual to certify with his or her signature that he or she meets the requirements of a qualified forester and is current with any continuing education that is required.
  - (d) A place to designate whether the individual is submitting a new registration or a renewal of registration.
- (3) An individual may update his or her registration at any time by submitting a renewal of registration.
- (4) An individual who no longer meets the requirements to be considered a qualified forester shall notify the department in writing, and the department shall remove the individual from the list of qualified foresters.
- (5) The department shall publish the list of qualified foresters on the department's website.

**History:** Add. 2013, Act 45, Imd. Eff. June 6, 2013

Compiler's Notes: Former MCL 324.51306, which pertained to complete restocking of private forest reservation with forest trees, was repealed by Act 378 of 2006, Eff. Sept. 1, 2007.

## **APPENDIX B CONSERVATION DISTRICT ACRONYMS**

AC	(NRCS) Area Conservationist
CD	Conservation District
CDEM	Conservation District Employees of Michigan
CISMA	Cooperative Invasive Species Management Area
CREP	Conservation Reserve Enhancement Program
CSP	Conservation Stewardship Program
CTAI	Conservation Technical Assistance Initiative
CWA	Cooperative Working Agreement
DC	(NRCS) District Conservationist
EGLE	(MI Dept. of) Environment, Great Lakes, and Energy
EPA	Environmental Protection Agency
EQIP	Environmental Quality Incentives Program
ESD	Environmental Stewardship Division
FAP	Forestry Assistance Program
FOIA	Freedom of Information Act
FSA	Farm Service Agency
GIS	Geographic Information System
GLRI	Great Lakes Restoration Initiative
HAP	Hunting Access Program
MACD	Michigan Association of Conservation Districts
MAEAP	Michigan Agriculture Environmental Assurance Program
MDARD	Michigan Department of Agriculture & Rural Development
MDNR	Michigan Department of Natural Resources
MDOT	Michigan Department of Transportation
MOU	Memorandum of Understanding
MSUE	Michigan State University Extension
NACD	National Association of Conservation Districts
NASCA	National Association of State Conservation Agencies
NCDEA	National Conservation District Employees Association
NCPP	National Conservation Planning Partnership
NRCS	Natural Resources Conservation Service
OMA	Open Meetings Act

QFP	Qualified Forest Program
RC	(MDARD) Regional Coordinator
RCPP	Regional Conservation Partnership Program
SC	(NRCS) State Conservationist
USDA	United States Department of Agriculture
USFWS	United States Fish & Wildlife Service
USFS	United States Forest Service
USGS	United States Geological Survey

**APPENDIX C**  
**SAMPLE MEMORANDUM OF UNDERSTANDING BETWEEN CONSERVATION DISTRICTS**

CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP)  
TECHNICAL ASSISTANCE PROJECT GRANT CONTRACT  
BETWEEN THE  
ARENAC CONSERVATION DISTRICT (hereafter referred to as the Grantee)  
AND  
SHIAWASSEE CONSERVATION DISTRICT (hereafter referred to the Grantor)

Statement of Purpose

The purpose of this grant is to further the goals and objectives of the Conservation Reserve Enhancement Program (CREP) through Conservation Districts in the following areas:

1. Provide funding for the establishment and implementation of CREP
2. Improve citizen access to natural resource management assistance
3. Increase the capacity of Conservation Districts to deliver natural resource management assistance
4. Engage stakeholders in natural resource management
5. Develop and implement a long-range strategy for improving the management of natural resources within the District

Contract Period

Upon signature by the Shiawassee Conservation District, the Contract shall be effective from October 1, 2007 through September 30, 2008. The Shiawassee Conservation District shall have no responsibility to provide funding to the Grantee for project work performed except between the above stated dates. Expenditures made by the Grantee prior to the start date or after the end date of this Contract are not eligible for payment under this Contract.

Statement of Work

The CREP Technician(s) will be extensively trained on the planning, design, installation, and maintenance of various types of CREP practices. The CREP Technician(s) will pro-actively seek landowner participation in the targeted sub-watersheds for the service area. The targeted sub-watersheds have been selected using Michigan Department of Environmental Quality (MDEQ) water quality information and/or a local technical advisory committee. The CREP Technician(s) will contact landowners, complete site reviews to determine eligibility, develop conservation plans, assist in the installation of conservation practices and associated BMPs, evaluate completed projects, and conduct status reviews.

The following is a list of activities that will be performed by the CREP Technician(s)

employed under this grant:

1. Promote the CREP practices in the service area and targeted watersheds to assist in the demonstration of program success and effectiveness in addressing non-point source pollution. Water quality monitoring will be conducted by MDEQ staff in these watersheds.
2. Identify sub-watershed boundaries and landowners within targeted watershed. Collect maps delineating watershed boundaries and waterways, including county drains. Collect and develop mailing lists of local landowners within targeted areas.
3. Coordinate the development of a Technical Advisory Committee (TAC). The TAC shall meet quarterly and should minimally consist of the CREP Technician(s), Natural Resources Conservation Service (NRCS), Farm Service Agency (FSA), Michigan State University Extension (MSUE), Michigan Department of Agriculture (MDA), Michigan Department of Environmental Quality (MDEQ), Michigan Department of Natural Resources (MDNR), County Drain Commissioner, other local agencies and landowners. The TAC will help identify local resource concerns and provide the CREP Technician(s) with guidance in the resolution of issues identified as barriers to the implementation of CREP. The TAC shall meet quarterly to accomplish these activities and can serve as a sounding board for promotion, implementation, and evaluation of the CREP activities and the position(s).
4. Advertise the CREP program within the service area and targeted sub-watersheds. Determine local media contacts. Develop advertisements to promote the program.
5. Contact other local and county publications such as the FSA Newsletter to include articles on the CREP program.
6. Develop information packets and mail directly to landowners in the targeted sub-watersheds.
7. Meet one-on-one with landowners to discuss the CREP program and benefits to water quality and wildlife habitat. Proactively seek participants in targeted areas and meet with them. Follow up on any questions and pursue the development of a conservation plan. Discuss various CREP practices, conservation easements, livestock access practices, and the financial incentives for participating in CREP.
8. Draft conservation plans working with participating landowners and other partners such as the MDNR, Forestry Assistance Program (FAP) positions, and NRCS for technical supervision. Plans should consider the landowners' objectives as well as water quality and wildlife habitat objectives. Review CREP practices and financial incentives with landowners.
9. Plans must include a maintenance component and meet NRCS Standards and Specifications. The Grantee should follow USDA policies, procedures, and technical guidelines in respect to implementing the CREP program.
10. Finalize the plan with the landowner. Submit the plan for NRCS review as needed and to FSA for payment. Assist with required USDA forms and paperwork to secure conservation practice funding and landowner financial incentives.
11. Assist landowners in obtaining seed, plant materials, equipment, and other materials within the service area. Work with landowners and contractors to ensure the practices are installed correctly.

12. Follow-up on previously installed practices to ensure good establishment of vegetative cover. Contact landowner if corrections are needed. Contact FSA if practices are not meeting CREP contract obligations.
13. Report accomplishments and barriers to the Technical Advisory Committee.
14. Complete the NRCS Certified Planner training and pursue certification as a conservation planner.
15. Attend other applicable training offered by NRCS, MDEQ, MDNR, Michigan Association of Conservation Districts (MACD), FSA, and MDA related to the CREP program. Buffer training courses and other classes related to filter strip and wetland restorations are encouraged.
16. Coordinate process and communication with FSA and NRCS agencies regarding program implementation and funding allocations.
17. Track and document project promotional activities, TAC meeting minutes, landowner contracts, plans developed and implemented, and training courses attended.
18. Develop an annual work plan with input from the TAC. The plan should identify program deliverables for the year.
19. Provide assistance to NRCS in conducting status reviews on established CREP practices.
20. Conduct measurement services as requested by NRCS to expedite the enrollment process.
21. Update the CREP GIS layer with all CREP contracts within the service area, according to the established protocol.

Budget

This is a cost reimbursement grant funded by Clean Michigan Initiative Non-point source funds through a contract with the Michigan Department of Environmental Quality.

Salary and Fringe Benefits: no less than 80 %	\$48,000.00
Indirect Costs: not to exceed 20%	\$12,000.00
Total	\$60,000.00

NOTE: The indirect costs include program administrative support, supervision, payroll, office space/equipment, liability and/or errors and omissions insurance, computer, email and Internet access, training, mileage, and materials.

The Shiawassee Conservation District will pay the Grantee a total amount of expenses incurred and not to exceed, the amount of \$60,000.

Expenses incurred by the Grantee prior to the Start Date of October 1, 2007 or after the End Date of September 30, 2008 of this Contract are not allowed under the Contract.

The Shiawassee Conservation District will approve payment requests after approval of reports and related documentation as required pursuant to the Statement of Work section.

The Shiawassee Conservation District reserves the right to request additional information before approving a payment.

Payment Schedule

The total amount of payments will be based on actual expenditures for the grant period. Payments will be made available based on the following schedule:

- First: 45 days after January 30, 2008
- Second: 45 days after April 30, 2008
- Third: 45 days after July 30, 2008
- Fourth: 45 days after October 30, 2008

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Total	\$60,000.00
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Grant payments will not be made until reports are filed as stated in Reporting Requirements.

Audit

The project will be subject to audit by the State who may review the adequacy of the financial management/reporting system during, or at any time subsequent to, the award.

Reporting Requirements

The Grantor will supply the Quarterly Progress Reports narrative (QPR) and financial spreadsheet and invoices for services rendered. The QPR and Financial spreadsheet and invoices shall be submitted to the Grant Administrator according to the following schedule:

First: January 7, 2008	Period 10/1/07 through 12/31/07
Second: April 7, 2008	Period 1/1/08 through 3/31/08
Third: July 7, 2008	Period 4/1/08 through 6/30/08
Final: October 7, 2008	Period 7/01/08-9/30/08 Plus the Final Report summarizing the entire grant period

The First payment will be made upon receipt of the following:

- Quarterly Progress Report narrative and financial spreadsheet for October, November, and December 2007.
- Invoice for total services rendered for months October, November, and December.

The Second payment will be made upon receipt of the following:

- Quarterly Progress Report narrative and financial spreadsheet for January, February, and March 2008.
- Invoice for total services rendered for months January, February, and March 2008.

The Third payment will be made upon receipt of the following:

- Quarterly Progress Report narrative and financial spreadsheet for April, May, and June 2008.
- Invoice for total services rendered for months April, May, and June 2008.

The Fourth payment will be made upon receipt of the following:

- Quarterly Progress Report narrative and financial spreadsheet for July, August, and September 2008.
- Invoice for total services rendered for months July, August, and September 2008.

#### Sub-recipient Relationship

Accepting this grant sub-award constitutes a sub-recipient relationship with the Shiawassee Conservation District. With the sub-recipient relationship come many responsibilities that you are bound to as the sub-recipient.

#### Grantee Responsibilities

1. The Grantee agrees to abide by all local, state, and federal laws, rules, ordinances and regulations in the performance of this grant.
2. All local, state, and federal permits, if required, are the responsibility of the Grantee. Award of this grant is not a guarantee of permit approval by the State.
3. The Grantee shall be solely responsible to pay all taxes, if any, that arise from the Grantee's receipt of this grant.
4. The Grantee is responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services furnished by the Grantee or its subcontractor under this Contract. The Grantee or its subcontractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in designs, drawings, specifications, reports, or other services.
5. The State's approval of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve the Grantee of responsibility for technical adequacy of the work. The State's review, approval, acceptance, or payment for any of the services shall not be construed as a waiver of any rights under this Contract or of any cause of actions arising out of the performance of this Contract.
6. The Grantee acknowledges that it is a crime to knowingly and willingly file false information with the State for the purpose of obtaining this Contract or any payment under the Contract, and that any such filing may subject the Grantee, its agents, and/or employees to criminal and civil prosecution and/or termination of the grant.

#### Assignability

The Grantee shall not assign this Contract or assign or delegate any of its duties or obligations under this Contract to any other party without the prior written consent of the Shiawassee Conservation District. The Shiawassee Conservation District does not assume responsibility regarding the contractual relationships between the Grantee and any subcontractor.

#### Non-discrimination

The Grantee shall comply with the Elliott Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 et seq, the Persons with Disabilities Civil rights Act, 1976 PA 220, as amended, MCL 37.1101 et seq, and all other federal, state and local fair

employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, or physical or mental disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

#### Unfair Labor Practices

The Grantee shall comply with the Employers Engaging in Unfair Labor Practices Act, 1980 PA 278, as amended, MCL 423.321 et seq.

#### Liability

1. The Grantee, not the Shiawassee Conservation District, is responsible for all liabilities as a result of claims, judgments, or costs arising out of activities to be carried out by the Grantee under this Contract, if the liability is caused by the Grantee, any subcontractor, or anyone employed by the Grantee.
2. In the event that liability arises as a result of activities conducted jointly by the Grantee and the Shiawassee Conservation District in fulfillment of their responsibilities under this Contract, such liability is held by the Grantee and the Shiawassee Conservation District in relation to each party's responsibilities under these joint activities, provided that nothing herein is construed as a waiver of any governmental immunity by the Grantee, the Shiawassee Conservation District, its agencies, or their employees, respectively as provided by statute or court decisions.

#### Conflict of Interest

No government employee, or member of the legislative, judicial, or executive branches, or member of the Grantee's Board of Directors, its employees, partner agencies or their families shall benefit financially from any part of this Contract.

#### Anti-Lobbying

The Grantee shall not use any of the grant funds awarded in this contract for the purpose of lobbying as defined in the State of Michigan's lobbying statute, MCL 4.415(2). "Lobbying" means communicating directly with an official of the executive branch of state government or an official in the legislative branch of state government of the purpose of influencing legislative or administrative action." The Grantee shall not use any of the grant funds awarded in this contract for the purpose of litigation against the State.

#### Debarment and Suspension

By signing this contract, the Grantee certifies to the best of its knowledge and belief that it, its agents, and its subcontractors:

1. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any federal department or the state.

2. Have not within a three-year period preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, as defined in 45CFR1185; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
3. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in subsection (2).
4. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.
5. Will comply with all applicable requirements of all other state or federal laws, executive orders, regulations, and policies governing this program.

#### Audit and Access To Records

The Shiawassee Conservation District reserves the right to conduct a programmatic and financial audit of the project, and the Shiawassee Conservation District may withhold payment until the audit is satisfactorily completed. The Grantee will be required to maintain all pertinent records and evidence pertaining to the grant contract, including grant and any required matching funds, in accordance with generally accepted accounting principles and other procedures specified by the State. All records must be maintained for a minimum of five (5) years after the final payment has been issued to the Grantee by the Shiawassee Conservation District.

#### Insurance

The Grantee must maintain insurance that will protect it from claims that may arise from the Grantee's actions under this Contract or from the actions of others for whom the Grantee may be held liable.

The Grantee must comply with applicable workers' compensation laws while engaging in activities authorized under this Contract.

#### Fees and Other sources of Funding

The Grantee shall not seek nor obtain funding through fees or charges to any client receiving services for which the State reimburses the Grantee under this Contract. The Grantee guarantees that any claims made to the State under this Contract must not be financed by any source other than the State under the terms of this Contract. If funding is received through any other source, the Grantee agrees to delete from Grantee's billings, or to immediately refund to the State, the total amount representing such duplication of funding.

#### Closeout

Upon issuance of final payment from the Shiawassee Conservation District, the Grantee releases the Shiawassee Conservation District of all claims against the Shiawassee Conservation District arising under this Contract.

The Grantee shall immediately refund to the Shiawassee Conservation District any payments in excess of the costs allowed by this Contract.

#### Cancellation

This Contract may be canceled by the Shiawassee Conservation District, upon 30 days written notice, due to Executive Order, budgetary reduction, other lack of funding, upon request by the Grantee, or upon mutual agreement by the Shiawassee Conservation District and the Grantee.

#### Termination

This Contract may be terminated by the Shiawassee Conservation District as follows.

1. If the Grantee fails to comply with the terms and conditions of the Contract.
2. If the Grantee knowingly and willingly presents false information to the Shiawassee Conservation District for the purpose of obtaining this Contract or any payment under this Contract.
3. If the Grantee engages in unfair labor practices that is compiled by the Department of Labor & Economic Growth or its successor.

Immediately and without further liability to the Shiawassee Conservation District if the Grantee, or any agent of the Grantee, or any agent of any subcontract is:

1. Convicted of a criminal offense incident to the application for or performance of a State, public, or private contract or subcontract.
2. Convicted of a criminal offense, including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees
3. convicted under State or federal antitrust statutes; or
4. Convicted of any other criminal offense which, in the sole discretion of the State, reflects on the Grantee's business integrity.
5. Added to the federal or state Suspension and Debarment list.

If the grant is terminated, the Shiawassee Conservation District reserves the right to require the Grantee to repay all or a portion of funds received under this Contract.

**CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP)  
TECHNICAL ASSISTANCE GRANT CONTRACT**

This Grant Contract ("Contract") is made between the Shiawassee Conservation District ("Grantor") and the Arenac Conservation District ("Grantee").

The purpose of this Contract is to provide funding in exchange for work to be performed for the project named below.

Project Name: Conservation Reserve Enhancement Program (CREP) Technical Assistance

Amount of grant: \$60,000

Start Date: October 1, 2007

GRANTEE CONTACT:

GRANTOR CONTACT:

\_\_\_\_\_  
Name/Title

\_\_\_\_\_  
Name/Title

\_\_\_\_\_  
Organization

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Phone

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Phone

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
Federal ID number

The individuals signing below certify by their signatures that they are authorized to sign this Grant contract on behalf of their agencies, and that the parties will fulfill the terms of this Contract, including the attached appendices, and used only as set forth herein.

FOR THE GRANTEE:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name/Title

FOR THE GRANTOR:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name/Title

**APPENDIX D**  
**SAMPLE BOARD MEETING MINUTES**

(NAME) CONSERVATION DISTRICT  
100 Main Street, City, Michigan 48888  
Telephone: 222-555-1234

The regular monthly meeting of the board of directors of (Name) Conservation district was called to order at 7:30 p.m. on May 18, 2018 by Chairman Taylor.

**Directors Present:** David Taylor; Brian Price; Amy Larson; Elizabeth Rivers.

**Others Present:** Chuck Smith, County Board Liaison; Jessica Summer, District Manager; Scott Fall, District Forester; Eric Spring, NRCS District Conservationist.

**Approval of Agenda:** Summer asked that the board consider amending an agreement with Wayne Reid (placed under Item "F" of Current Business). By consensus, the agenda was approved as amended.

**Guest Reports.** Chuck Smith reported that:

- The District had an article in the County Seat Press regarding timber sales;
- The MDNR inspected the natural Education Reserve and was very complimentary about the improvements the District has facilitated there; and
- The County Board has established a new fee schedule for Loon Lake Camp.

**Consent Calendar.** Action: (Items of a routine nature to be voted on with one motion - no discussion - directors and staff may remove an item and place it elsewhere on the agenda for discussion.)

RECOMMENDATION: Approval

1. Minutes of February Regular Board Meeting
2. Bills paid in February, March list of bills
3. Terms of employment for Ann Winter
4. Recommendation: Receive and File

Moved by Price, supported by Rivers, to approve above items of the Consent Calendar; Carried.

**Current Business:**

- Energy Transfer Grant Agreement with MDARD - The board referred this item to staff and suggested that they use the grant to sponsor the Pasture Walk meeting this spring.

- 1998 Seedling Sale Report - the board reviewed the information regarding the 1998 sale and suggested that staff consider offering other items instead of just conifers to boost up sales. The board also suggested inserting the order form in the Review, County Seat Press, and District Newsletter.
- Annual Meeting Update - The board discussed the upcoming meeting and reaffirmed that staff would be making the award presentations.
- Amendment of Agreement with Wayne Reid - Moved by Larson, supported by Rivers, to increase the current amount of the agreement with Reid to \$2,000 and to amend the scope of work by adding the coordination of three more focus groups; motion carried.

**Staff Reports:**

Jessica Summer, District Manager, reported that:

- The Groundwater Program is going well, but it could use the assistance of the board members to promote the program in their communities. Taylor indicated he would be glad to pitch the program at the annual meeting; and
- Her activities were covered in the written report included in the agenda packet.

Scott Fall, District Forester, reported that:

- The Inter-District Forestry Committee met last week to discuss the forestry program;
- Tree sale orders are still coming in, and it looks like it will be a record year for the tree sale program. This is primarily due to the District meeting the needs of its customers by offering small quantity stock and wildflower seed packets; and
- The District's windbreak program is gaining popularity with landowners, as Fall is contracted to plant 550 acres of windbreaks this spring.

Eric Spring, NRCS, reported that:

- He completed EQIP plans and, due to the open winter, some farmers have been able to take soil samples to prepare for the implementation of the plans;
- He will attend a Grazing Conference in Gaylord tomorrow; and
- NRCS budget has been cut across the nation and there is a \$1.6 million shortfall in Michigan.

**Information and Correspondence:** Summer briefly reviewed the materials included in the agenda packet.

**General Discussion and Director Reports:** None offered.

**Adjournment:** Taylor adjourned the meeting at 9:05 p.m.

THESE MINUTES STAND TO BE APPROVED.

Respectfully submitted by: *Jessica Summer*

Signature of Secretary upon approval: \_\_\_\_\_

## APPENDIX E ROBERT'S RULES OF ORDER FOR BEGINNERS

### **Call to Order**

This occurs at the beginning of the meeting, once quorum has been attained. Quorum for GRC is at least 50% of all members, excluding the Speaker and any vacant positions. Quorum for General Meetings is fifty Active Members.

### **Motions**

Business is resolved at meetings by voting on propositions put forward by members. Such propositions are called motions. Any person who is eligible to vote at a meeting may make a motion. Depending on the type of motion, another member is usually needed to second the motion. Motions are then debated and voted upon. No member may speak more than once to any motion (although the Speaker may choose not to enforce this rule if s/he deems it appropriate.) A member must raise his/her hand. A speaker's list is kept acknowledging individuals in the order in which they have raised their hands.

### **Amendments**

A motion may be amended by a subsequent motion. If the mover and seconder of the original motion consent to the amendment, the amendment is deemed "friendly" and it does not require a seconder and is not subject to debate. If an amendment is not deemed friendly, it does require a seconder. Such a motion must then be debated and voted upon before the debate resumes on the original motion.

### **Motions which take Precedence**

Normally, a motion cannot be made while another motion is being debated. There are, however, certain types of motions that take precedence over "normal" motions...

1. **Motion to Amend** (as above)
2. **Motion to Table** – This is a motion to defer further debate on the main motion until some future time. The motion requires a seconder and is debatable only as to the length of time that the main motion will remain tabled.
3. **Motion to Refer** – This is similar to a Motion to Table, except that instead of deferring a motion for a specific amount of time, it is deferred until advice can be sought from another body.
4. **Motion to Call the Question** – This is a motion to cease debate and proceed to the vote on the main motion. If there is an objection to the motion, the motion requires a seconder and must pass by a two-thirds vote. The motion is not debatable.
5. **Motion to Reconsider** – This is a motion to re-open debate on a motion that has already been voted upon earlier in the same meeting. This motion requires a seconder.

6. **Motion to Adjourn** – A motion to end the meeting. Requires a seconder and is not debatable.

## **Points**

There are several special motions called “Points” that have priority over all other motions or discussion. Points are considered serious enough that a speaker may be interrupted by another individual who wished to make a Point. Points do not require a seconder.

1. **Point of Order** - An individual may raise on a point of order if they feel that business is proceeding incorrectly. The speaker must either agree or disagree with the point raised. An individual may also use this point if they do not understand the proceedings and/or wish to have a clarification made on a specific ruling.
2. **Point of Privilege** – Individuals may raise Points of Privilege if it is felt that their rights as members of the assembly have been violated. This Point can also be used if an individual is unable to participate in the discussion due to an inability to hear the speaker, because the room is too hot or cold, or because s/he is unclear on matters of procedure. **If you do not understand what is happening, you can interrupt the speaker and request clarification on a Point of Privilege.**
3. **Point of Information** - This point is the most misused one in the book. This Point is used to **ASK** for information that you feel is essential to your understanding of the debate. **It may not be used to give information.** The member may decide not to answer the question by refusing to yield the floor. Again, it is not in order to give someone information on a point of information.
4. **Challenge to the Speaker** – This Point is used when an individual disagrees with the Speaker’s ruling. The mover must state why he or she disagrees with the ruling. The Speaker may then give the reasoning behind the ruling. A vote is then taken to affirm the Speaker’s ruling.

## **Voting**

Voting on motions normally requires a simple majority. Voting is normally done by a show of hands, however, anyone eligible to vote has the right to demand a vote by roll call. Voting by secret ballot normally occurs only when an election to fill a position is required, and the assembly does not desire to conduct the election by a show of hands.

## **To Ensure Smooth Discussion**

- 1) **Raise your hand if you wish to speak.** The Speaker will take note and ask you to speak at the appropriate time.
- 2) **State your name and department before speaking to the topic at hand.**

- 3) **Speak to the topic or motion at hand!** If you wish to raise something not on the agenda, there are always the “Question Period” or “New Business” agenda items.
- 4) **If you wish to make a suggestion regarding the motion on the floor, form it in terms of an amendment.** Your amendment will need seconding, after which it will become the current item on the floor.
- 5) **Try not to repeat points other people have already made** unless you have something new to add to the point.

## **APPENDIX F**

### **ACCOUNTING TERMS FOR CONSERVATION DISTRICT DIRECTORS**

**Accounts Payable (AP)** - Accounts Payable include all the expenses a business has incurred but has not yet paid. This account is recorded as a liability on the Balance Sheet as it is a debt owed by the conservation district.

**Accounting Period** - An Accounting Period is designated in all Financial Statements (Income Statement, Balance Sheet, and Statement of Cash Flows). The period communicates the span of time that is reported in the statements.

**Accounts Receivable (AR)** - Accounts Receivable include all the revenue (sales) a conservation district has provided but has not yet collected payment on. This account is on the Balance Sheet, recorded as an asset that will likely convert to cash in the short-term.

**Accrued Expense** - An expense that been incurred but hasn't been paid is described by the term Accrued Expense.

**Allocation** - The term Allocation describes the procedure of assigning funds to various accounts or periods. For example, a cost can be Allocated over multiple months (like in the case of insurance) or Allocated over multiple departments (as is often done with administrative costs for companies with multiple divisions).

**Asset (A)** - Anything the conservation district owns that has monetary value. These are listed in order of liquidity, from cash (the most liquid) to land (least liquid).

**Balance Sheet (BS)** - A financial statement that reports on all of a conservation district's assets, liabilities, and equity. As suggested by its name, a balance sheet abides by the equation  $\text{Assets} = \text{Liabilities} + \text{Equity}$ .

**Certified Public Accountant (CPA)** - CPA is a professional designation that an accountant can earn by passing the CPA exam and fulfilling the requirements for both education and work experience, which vary by state.

**Credit** - A credit is an increase in a liability or equity account or a decrease in an asset or expense account.

**Debit** - A debit is an increase in an asset or expense account or a decrease in a liability or equity account.

**Depreciation (Dep)** - Depreciation is the term that accounts for the loss of value in an asset over time. Generally, an asset must have substantial value in order to warrant depreciating it. Common assets to be depreciated are automobiles and equipment. Depreciation appears on the Income Statement as an expense and is often categorized as a "Non-Cash Expense" since it doesn't have a direct impact on a conservation district's cash position.

Equity (E) - Equity denotes the value left over after liabilities have been removed. Recall the equation  $\text{Assets} = \text{Liabilities} + \text{Equity}$ . If you take your Assets and subtract your Liabilities, you are left with Equity.

Expense (Cost) - An Expense is any cost incurred by the business.

Fiscal Year (FY) – A *fiscal year* is a 12-month period that an organization uses to report its finances.

Fixed Cost (FC) - A Fixed Cost is one that does not change with the volume of sales. For example, rent and salaries won't change if a conservation district sells more. The opposite of a Fixed Cost is a Variable Cost.

General Ledger (GL) - A General Ledger is the complete record of a conservation district's financial transactions. The GL is used to prepare all the Financial Statements.

Generally Accepted Accounting Principles (GAAP) - These are the rules that all accountants abide by when performing the act of accounting.

Generally Accepted Account Standards Audit (GAAS) – GAAS audit is conducted by an independent auditor who plans, conducts, and reports the results of an audit in accordance with generally accepted auditing standards (GAAS).

Income Statement (Profit and Loss) (IS or P&L) - The Income Statement (often referred to as a Profit and Loss, or P&L) is the financial statement that shows the revenues, expenses, and profits over a given time period. Revenue earned is shown at the top of the report and various costs (expenses) are subtracted from it until all costs are accounted for; the result being Net Income.

Interest - Interest is the amount paid on a loan or line of credit that exceeds the repayment of the principal balance.

Inventory - Inventory is the term used to classify the assets a conservation district has purchased to sell to its customers that remain unsold. As these items are sold to customers, the inventory account will lower.

Journal Entry (JE) - Journal Entries are how updates and changes are made to a conservation district's books. Every Journal Entry must consist of a unique identifier (to record the entry), a date, a debit/credit, an amount, and an account code (that determines which account is altered).

Liability (L) - All debts that a conservation district has yet to pay are referred to as Liabilities. Common liabilities include Accounts Payable, Payroll, and Loans.

**Material** - Material is the term that refers to whether information influences decisions. For example, if a conservation district has revenue in the millions of dollars, an amount of \$0.50 is hardly material. GAAP requires that all Material considerations must be disclosed.

**Net Income** - Net Income is the dollar amount that is earned in profits. It is calculated by taking Revenue and subtracting all the Expenses in a given period, including Cost of Goods Sold (COGS), Overhead, Depreciation, and Taxes.

**Payroll** - Payroll is the account that shows payments to employee salaries, wages, bonuses, and deductions. Often this will appear on the Balance Sheet as a Liability that the conservation district owes if there is accrued vacation pay or any unpaid wages.

**Receipts** - A Receipt is a document that proves the payment was made. A business produces receipts when it provides its product or service and it receives receipts when it pays for goods and services from other businesses. Received Receipts should be saved and cataloged so that a conservation district can prove that its incurred expenses are accurate.

**Revenue (Sales) (Rev)** - Revenue is any money earned by the business.

**Trial Balance (TB)** - Trial Balance is a listing of all accounts in General Ledger with their balance amount (either debit or credit). The total debits must equal the total credits, hence the balance.

**APPENDIX G  
MDARD'S CONSERVATION DISTRICT DIRECTOR ELECTION DOCUMENTS**

**CONSERVATION DISTRICT DIRECTOR NOMINATING PETITION  
(NON-PARTISAN)**

We, the undersigned, residents of the \_\_\_\_\_ Conservation District, in the County(ies) of \_\_\_\_\_, State of Michigan, hereby nominate \_\_\_\_\_, whose mailing address is \_\_\_\_\_, Michigan, as candidate for the office of District Director to be voted for at the Conservation District Annual Meeting to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. This Petition is due to the Conservation District Office by the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and the length of the term of office is \_\_\_\_\_ years.

**WARNING: FIVE NOMINATING SIGNATURES REQUIRED. NOMINATIONS MUST BE FROM RESIDENTS OF THE DISTRICT WHO ARE AT LEAST 18 YEARS OF AGE. A PERSON SHALL NOT KNOWINGLY SIGN MORE THAN ONE NOMINATING PETITION PER OPEN SEAT FOR THIS ELECTION. A PERSON SHALL NOT SIGN A NAME OTHER THAN HIS/HER OWN OR SIGN WITH MULTIPLE NAMES.**

Signature	Printed Name	Street Address or Rural Route	Zip Code	Signature Date

**CERTIFICATE OF CIRCULATOR**

**DO NOT SIGN OR DATE CERTIFICATE UNTIL AFTER CIRCULATING PETITION**

The undersigned circulator of the above petition asserts that he/she is 18 years of age and a resident of the county(ies) and that each nominating signature is the genuine signature of the person purporting to sign the petition, the person signing was, at the time of signing, a resident of the district listed in the hearing of the petition, and the nominator was at least 18 years of age. Failure to follow these requirements will disqualify the circulator from running in the district election.

**WARNING: A CIRCULATOR SHALL NOT MAKE A FALSE STATEMENT IN THE ABOVE CERTIFICATE OR SIGN A NAME OTHER THAN HIS/HER OWN AS THE CIRCULATOR.**

Signature of Circulator	Date
Printed Name of Circulator	
Complete Address of Circulator	

Received on:	By:
--------------	-----

Verified on:

By:

**VOTER REGISTRATION AND QUALIFICATION FORM**

**(To be used for both absentee ballots voting and voting that takes place during the annual meeting)**

In accordance with the laws of the State of Michigan, persons who are of legal age and a resident of the \_\_\_\_\_ Conservation District, and who can demonstrate residency by one (1) piece of identification, are eligible to vote in this election.

I, \_\_\_\_\_, do hereby certify that I am a resident of

(Please Print Name)

this District and have not previously voted in this election.

\_\_\_\_\_  
Signature of Voter

Dated: \_\_\_\_\_

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City

\_\_\_\_\_  
Zip Code

**VOTER REGISTRATION AND QUALIFICATION FORM**

**(To be used for both absentee ballots voting and voting that takes place during the annual meeting)**

In accordance with the laws of the State of Michigan, persons who are of legal age and a resident of the \_\_\_\_\_ Conservation District, and who can demonstrate residency by one (1) piece of identification, are eligible to vote in this election.

I, \_\_\_\_\_, do hereby certify that I am a resident of

(Please Print Name)

this District and have not previously voted in this election.

\_\_\_\_\_  
Signature of Voter

Dated: \_\_\_\_\_

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City

\_\_\_\_\_  
Zip Code

Verified on:

By:

\_\_\_\_\_ **Conservation District BALLOT**

Conservation District Director election for \_\_\_\_ year term

Vote for no more than \_\_\_\_ Director(s)

- John Does
- Jane Gray
- Mary Hill
- Max Smelt

Conservation District Director election for \_\_\_\_ year term

Vote for no more than \_\_\_\_ Director(s)

- John Didn't
- Jane Tan
- Mary Valley
- Max Shiner

**CONSERVATION DISTRICT DIRECTOR OATH OF OFFICE**

(In accordance with Part 93, PA 451 of 1994, as amended)

(PLEASE PRINT)

\_\_\_\_\_  
CONSERVATION DISTRICT NAME

I, \_\_\_\_\_, do solemnly swear/affirm that I will support the Constitution of the United States and the Constitution of the State of Michigan, and that I will faithfully discharge the duties of the Office of a Conservation District Director, that includes upholding Conservation District Law, according to the best of my ability.

Check one of the following:

- I am a re-elected director, Exp. Date: \_\_\_\_\_
- I am an elected new director, replacing \_\_\_\_\_ Exp. Date: \_\_\_\_\_
- I am an appointed director, until the next annual meeting, replacing \_\_\_\_\_, whose term expires: \_\_\_\_\_

\_\_\_\_\_  
(THE FOLLOWING TO BE COMPLETED IN FRONT OF NOTARY PUBLIC)

\_\_\_\_\_  
DIRECTOR'S SIGNATURE

\_\_\_\_\_  
STREET ADDRESS CITY ZIP

(\_\_\_\_\_) \_\_\_\_\_  
PHONE NUMBER EMAIL ADDRESS

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ appeared before me, a Notary Public, in and for said County, and is the same person who executed the above Oath of Office, and who acknowledged the same to be his/her free act and deed.

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
County, Michigan  
My Commission Expires:

# CERTIFICATE OF DIRECTORS ELECTION RESULTS

(In accordance with Part 93, PA 451 of 1994, as amended)

(PLEASE PRINT)

---

CONSERVATION DISTRICT NAME \_\_\_\_\_

**ELECTION INFORMATION:**

---

DATE	LOCATION	NUMBER OF DIRECTORS TO BE ELECTED
------	----------	-----------------------------------

We hereby certify that the following individuals were nominated for director(s) of the above referenced Conservation District and that each nominee received the indicated number of votes.

	NAME	ADDRESS	VOTES REC'D
1	_____	_____	_____
2	_____	_____	_____
3	_____	_____	_____
4	_____	_____	_____
5	_____	_____	_____
6	_____	_____	_____

We further certify that there were \_\_\_\_\_ ballots cast in the election. There were \_\_\_\_\_ void ballots.

We further certify that the following were elected for the number of years indicated:

	NAME	LENGTH OF TERM	EXPIRES ON
1	_____	_____	_____
2	_____	_____	_____
3	_____	_____	_____
4	_____	_____	_____
5	_____	_____	_____

Total in attendance: \_\_\_\_\_

Method used for tie vote (if applicable): \_\_\_\_\_

***Polling Officials:***

	PRINTED NAME	SIGNATURE	DATE
1	_____	_____	_____
2	_____	_____	_____
3	_____	_____	_____

**APPENDIX H  
MDARD'S BOARD GOVERNANCE ELEMENT**

<b>Board Recruitment, Vacancy Filling, and Development</b>				
<b>Board Capacity</b>	<b>A. Baseline Expectations</b>	<b>B. Effective Practices</b>	<b>C. Attributes for High Performance</b>	<b>Response</b>
Succession and Recruitment	Board maintains an up-to-date list of board members, with contact information, date elected/appointed and end of term.	Board has an intentional recruitment strategy including an Associate Director program.	Board recruits' new directors based on skills needed to fulfil the districts mission. When possible, associate directors' transition to board directors.	
Onboarding	New directors are given a packet of introductory materials that includes the MACD Conservation District Director's Handbook, Conservation District Operations Handbook and Conservation District Law.	Board uses the MDARD onboarding checklist to prepare new board members for their role with the district.	Board regularly schedules time in meeting agendas to discuss board performance and ways to be more effective.	
Development	Directors have participated in online training provided by MACD.	At least one director has attended one or more MACD/NACD workshop, and or/MACD Summer Conference or Fall Convention annually.	District budget includes a specific line item for board development, and all directors attend some form of conservation-related training each year.	
Board Performance	Directors complete a self-assessment every two years using the Board Governance Element.	Directors prioritize areas of improvement based on five-year long-range plan.	Board demonstrates a culture of learning, engages in positive appreciation, and takes appropriate action for high performance.	
Board Organization	Board designates a board chair, annually.	Board designates a full suite of director positions (vice-chair, treasurer, secretary, etc.)	Board positions are rotated on a regular basis, with intention, and appropriate preparation for incoming replacement	

<b>Financial Responsibilities</b>				
<b>Category</b>	<b>A. Baseline Expectations</b>	<b>B. Effective Practices</b>	<b>C. Attributes for High Performance</b>	<b>Response</b>
Financial Oversight	Treasurer reviews financial statements prior to each meeting and directors provide guidance on financial dealings.	Directors review and understand district financial statements and audit report.	District employs a dedicated bookkeeper or financial manager to provide an additional level of segregation of duties.	
Grants	Directors possess general knowledge and understanding of grant agreement requirements.	All grant guidelines, outcomes and reporting requirements are followed/completed in a timely manner.	Directors review grant outcomes and identify future funding sources.	
<b>Effective Board Meetings</b>				
<b>Category</b>	<b>A. Baseline Expectations</b>	<b>B. Effective Practices</b>	<b>C. Attributes for High Performance</b>	<b>Response</b>
Board Meeting Accountability	At a minimum, the board meets four times per year with a quorum present.	Board meets monthly, meetings are rarely cancelled.	Board acts on the recommendations of committees.	
Effective Meetings	Meeting materials are distributed to directors seven days in advance to contribute to an effective meeting.	Meetings start and end on time and ideally are less than 2 hours except under special circumstances.	Board meetings are future-oriented, with regular review and evaluation of business plan strategies and actions.	
Committees	Committees with no more than 2 board members exist.	Committees have clear purpose and structure.	Committees plan for and accomplish annual goals and activities.	
Transparency and Open Meetings Act	All decisions and actions of the board are discussed and decided during meetings open to the public and recorded in the meeting minutes.	Accurate agendas, minutes and financial statements are maintained and available to the public upon request.	Directors and staff willingly and openly recuse themselves from any decisions or activities that may conflict with their personal lives or endeavors.	
<b>Human Resources</b>				
<b>Category</b>	<b>A. Baseline Expectations</b>	<b>B. Effective Practices</b>	<b>C. Attributes for High Performance</b>	<b>Response</b>
District Manager	District employs a manager whose position description provides clear expectations of job duties.	Board conducts a performance evaluation of the district manager annually, using objective, measurable and realistic goals.	Board delineates clear roles and responsibilities between the directors and the district manager, including a chain of command.	
Personnel Management	Board approves and reviews a personnel policy annually.	Board establishes a personnel committee to work with staff and provide guidance on employment issues to the full board.	Board designates one director to serve as the liaison for district employees. Liaison keeps board apprised of employee needs and employment situations.	

**APPENDIX I  
FREQUENTLY ASKED QUESTIONS  
TAX EXEMPTION AND ACCEPTING CHARITABLE CONTRIBUTIONS**

**Are Conservation Districts a unit of government?**

**Yes**, Conservation District (CD) Law - Natural Resources and Environmental Protection Act (NREPA) - Public Act 451 section 9302 defines a "district" or "conservation district" as a governmental subdivision of this state, and a public body corporate and politic.

**As a unit of government, are Conservation Districts Sales and Use Tax Exempt?**

**Yes**, section 4 of the Michigan General Sales Tax Act [MCL 205.54(7)] and section 4 of the Use Tax Act [MCL 205.94(1)(g)] state that sales to the United States government, the State of Michigan, and its political subdivisions, departments, and institutions are not subject to tax, as long as the sales are paid for directly to the seller by warrant using government funds.

**Does Michigan issue tax-exempt numbers? If not, how do I claim an exemption from sales or use tax?**

**No**, the Michigan Department of Treasury does **not** issue tax-exempt numbers. To claim an exemption from sales or use tax, a purchaser must provide valid documentation of the exemption to the vendor by completing a Michigan Sales and Use Tax Certificate of Exemption [Form 3372](#).

**Do I have to prove to the supplier/vendor I am tax deductible?**

**No**, legally, you only must supply the vendor with a Michigan Sales and Use Tax Certificate of Exemption Form 3372. On occasion, a vendor will ask for proof of your tax-deductible status; while a nonprofit requires a determination letter from the IRS to secure tax-exempt status, a government entity does not.

However, as a service to government entities, the IRS will issue a Governmental Information Letter 4076C documenting Federal Tax Status of Governmental Entity. Letter 4076C is available to government entities free of charge. Letter 4076C summarizes the law regarding the tax-exempt status of state and local governments under Internal Revenue Code section 170(c)(1). The letter provides the federal income tax status of an entity that performs essential government services and explains the conditions that must be met for governmental organizations to qualify for federal income tax exemption. To obtain a Governmental Information Letter 4076C, call the IRS Tax Exempt and Government Entities **customer assistance line at 1-877-829-5500**. You will need your employer identification number, or EIN, and the district's legal name and address as it appears on IRS records. The person calling must be able to assert that they are legally authorized to receive the letter.

**What are my responsibilities as a supplier/vendor?**

Businesses that sell tangible personal property to the final consumer need a sales tax license; most districts already have this license and should display it in the view of the public. Districts that sell tangible personal property (field guides, trees, etc.) to the final consumer are required to remit a 6% sales tax on the total price (which includes shipping and handling charges) of their taxable retail sales to the Michigan Department of Treasury. Districts remit their SUW taxes using Form 5080 (via the mail) or Michigan Treasury Online (MTO) on their required schedule. Additionally, Form 5081, Sales, Use and Withholding Taxes Annual Return, must be submitted to the Michigan Department of Treasury by February 28th each year.

**Is a donation to a Conservation Districts considered a charitable contribution?**

**Yes**, charitable contributions to governmental units are tax-deductible under section 170(c)(1) of the Internal Revenue Code if the contribution is made for a public purpose.

**What is a charitable contribution under IRC 170?**

To meet the charitable contribution requirements under IRC 170, a donor must not receive money or other gifts or services in exchange for the donation. If the donor receives something of value for a payment, all or part of the contribution is not deductible. As stated above, the gift is only deductible if the item or funds are for public purposes. Find additional information on donations at <https://www.irs.gov/pub/irs-tege/eotopice85.pdf>

**Other tax-exempt resources:**

FAQ for the State of Michigan: [https://www.michigan.gov/taxes/0,4676,7-238-43519\\_43529-154427--,00.html](https://www.michigan.gov/taxes/0,4676,7-238-43519_43529-154427--,00.html)

**Other charitable contribution resources:**

Charitable contributions: <https://www.irs.gov/pub/irs-pdf/p1771.pdf>