

CHAPTER 10

ENFORCEMENT

10.1 PURPOSE

The purpose of this Chapter is to provide procedures for the enforcement of this Code. (Ord. No. 2010-103)

10.2 RESPONSIBILITY

The primary responsibility for enforcement of this Code is vested in the Board and shall be executed by the General Manager and other authorized District representatives. The District's representatives are authorized and empowered to act as enforcement agents of the District with power to inspect and issue notices of violations of the provisions of this Code. The final determination of the existence of a violation of any of the provisions of this Code (including, without limitation, levying of fines, termination of service, revocation of Permits, and civil and criminal court actions) shall be made by the District Board. (Ord. No. 2010-103)

10.3 VIOLATION

Any person believed to be violating any provision of this Code or any other ordinance, rule or regulation of the District may be served by the General Manager or other authorized person with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Said time limit shall be not less than two or more than seven working days. The alleged violator shall, within this period of time stated in such notice, permanently cease all violations. All persons shall be held strictly responsible for any and all acts of agents or employees done under the provisions of this or any other ordinance, rule or regulation of the District. Upon being notified by the General Manager of any defect arising in any sewer or of any violation of this ordinance the person or persons having charge of said work shall immediately correct the same. (Ord. No. 93-68, Section 13.01)

10.4 PUBLIC NUISANCE

Continued habitation of any building or continued operation of any industrial facility in violation of the provisions of this Code or any other ordinance, rule or regulation of the District is hereby declared to be a public nuisance. The District may cause proceedings to be brought for the abatement of the occupancy of the building or industrial facility during the period of such violation. (Ord. No. 93-68, Section 13.02)

10.5 LIABILITY FOR VIOLATION

Any person violating any of the provisions of this Code or any other ordinances, rules or regulations of the District shall become liable to the District for all expense, loss or

damage occasioned to the District by reason of such violation. (Ord. No. 93-68, Section 13.04)

10.6 ENFORCEMENT MECHANISMS

The enforcement mechanisms available to the District for violations of the provisions of this Code include the following: (Ord. No. 93-69, Sec. 5.1)

10.6.1 Informal administrative action including Notice of Violation and warning notices. (Ord. No. 93-69, Sec. 5.1a)

10.6.2 Administrative orders and compliance schedules. (Ord. No. 93-69, Sec. 5.1b)

10.6.3 Institution of Sampling and Evaluation programs, Enforcement Compliance Schedule Agreements, and related administrative orders. (Ord. No. 93-69, Sec. 5.1c)

10.6.4 Suspension or termination of services. (Ord. No. 93-69, Sec. 5.1d)

10.6.5 Administrative Civil Penalties. (Ord. No. 93-69, Sec. 5.1e)

10.6.6 Show cause hearing. (Ord. No. 93-69, Sec. 5.1f)

10.6.7 Legal action. (Ord. No. 93-69, Sec. 5.1h)

10.6.8 Criminal Penalties (Ord.93-68, Section 13.03)

10.6.9 Any other provision or rule found in Federal, State or local laws upon which the District may undertake enforcement. (Ord. No. 2013111)

10.7 INFORMAL ADMINISTRATIVE ACTIONS INCLUDING NOTICE OF VIOLATION AND WARNING NOTICES

District staff may, on an informal basis, take action against a Discharger for minor violations or technical or clerical shortcomings of a User or a User's compliance submittals. These informal administrative actions may include informal notices (i.e. Telephone calls to the User's representative), Notice of Violation, informal meetings or informal warning letters. Such action will not prevent a subsequent or concurrent imposition of other enforcement mechanisms. (Ord. No. 93-69, Sec. 5.1.1)

10.7.1 Emergency and Corrective Work on Wastewater Facilities.

In the event repairs, construction or other public work is performed on any premises pursuant to any provision of law authorizing the emergency performance of public work and the expenditure of public funds, or pursuant to any other provision of law authorizing public work on private property in order to correct,

eliminate or abate a condition upon such premises which threatens to cause, causes, or caused a violation of any provision of this Code, or any other requirement of law, the Person responsible for the occurrence or condition giving rise to such public work, the occupant and the owner of the premises shall be liable, jointly and severally, to the District for all public expenditures related to the public work. (Ord. No. 2010-103)

10.7.2 Correct Work by District.

In order to enforce the provisions of this Code, the District may correct any violation. The cost of such correction, including but not limited to District repair, monitoring, inspection and legal expenses, may be added to any Sewer Service Charge payable by the Person violating the Code or charged to the owner or occupant of the property upon which the violation occurred, and the District shall have such remedies for the collection of such costs as it has for the collection of Sewer Service Charges. The District may also petition the court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any Person from the continued violation of this Code. (Ord. No. 2010-103)

10.7.3 Violations.

Whenever the District finds that any User has violated or is violating this Code, a Wastewater Contribution Permit, or any prohibition, limitation or requirements contained herein, the District may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the District by the User. (Ord. No. 93-69, Sec. 5.1.1)

10.8 ADMINISTRATIVE ORDERS AND COMPLIANCE SCHEDULES

10.8.1 When the District finds that a User has violated the prohibitions or requirements of this Code the provisions of a Wastewater Contribution Permit or Waste Hauler Permit, the District may issue an administrative order suspending service or an order directed to the User to: (1) immediately cease a discharge, (2) immediately comply with enumerated requirements; or (3) immediately make changes to their pretreatment facility and procedures to insure full compliance. (Ord. No. 93-69, Sec.5.1.2, rev. Ord. No. 2013-111)

10.8.2 The District may, under the circumstances set forth in 10.8.1, issue an order containing a compliance schedule or a time schedule setting forth dates by which specific corrective actions must be completed. (Ord. No. 93-69, Sec.5.1.2)

10.9 REQUIRED SAMPLING AND EVALUATION ENFORCEMENT

Grounds for instituting a Sampling and Evaluation Program include compliance sampling or District sampling indicating a significant non-compliance (SNC). The Sampling and Evaluation Program may consist of District sampling of the discharger's Wastewater at

the first opportunity convenient to the District, upon which daily samples may be taken each day for up to five (5) days. The District or outside laboratory will analyze these samples for the violating constituents and provide notice to the Discharger in regard to the results of said sampling. Violations which may occur during the Sampling and Evaluation Program shall constitute subsequent violations under this Ordinance or under any applicable law. The User will be assessed all costs incurred for the Sampling and Evaluation Program. (Ord. No. 93-69, Sec.5.1.3, rev. Ord. No. 2013-111)

10.10 SUSPENSION OR TERMINATION OF SERVICE

10.10.1 The District may suspend Wastewater treatment service and/or a Wastewater Contribution Permit when such suspension is necessary, in the opinion of the District, to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health and welfare of persons, the environment, and/or may cause Interference to the District's facilities or may cause the District to violate any condition of its NPDES Permit. (Ord. No. 93-69, Sec.5.1.4)

10.10.2 Any Person notified of a suspension of Wastewater treatment service and/or a Wastewater Contribution Permit shall immediately stop or eliminate the contribution. In the event of a failure of the Person to comply voluntarily with the suspension order, the District shall take such steps as deemed necessary, including but not limited to immediate severance of the sewer connection where necessary to prevent or minimize damage to the District's facilities and/or to prevent injury to persons, property or the environment. The District shall reinstate the Wastewater Contribution Permit and/or the Wastewater treatment service only upon proof, satisfactory to the District, of the elimination of the offending discharge. A detailed written statement submitted by the User describing the causes of the offending discharge and the measures taken to prevent any future occurrence shall be submitted to the District within fifteen (15) days of the date of occurrence. (Ord. No. 93-69, Sec.5.1.4)

10.10.3 Any User who violates the following conditions of this Code, or applicable State and Federal regulations, is subject to having his permit revoked:

- a) Failure of a User to factually report the Wastewater constituents and characteristics of his discharge;
- b) Failure of the User to report significant changes in operations, or Wastewater constituents and characteristics;
- c) Refusal of reasonable access to the User's premises for the purpose of inspection or monitoring;
- d) Violation of a condition or conditions of the permit; or
- e) Failure of the User to immediately notify the District of an accidental discharge and/or a failure to take appropriate corrective action to prevent a recurrence. (Ord. No. 93-69, Sec.5.1.4)

10.10.4 Revocation of Permits.

Subject to the procedure set forth in Section 10.12 below, the District Board may revoke any Permit issued pursuant to the provisions of this Code upon a determination by the District Board that:

- a) The Permittee has failed to factually report the Wastewater constituents, characteristics or volume of a Permitted Wastewater discharge;
- b) The Permittee has failed to report significant or substantial changes in the operations conducted upon the premises to which the Permit pertains or has failed to report significant or substantial changes in Wastewater constituents, characteristics, or volumes pertaining to the premises;
- c) The Permittee has failed to factually report other relevant information requested by the District in connection with its consideration and issuance of the Permit or has failed to report significant or substantial changes in the information;
- d) The permittee has refused, or failed to allow, reasonable access to the premises to which the Permit pertains; or
- e) The permittee has violated, caused to be violated or allowed to be violated, any term, condition, or provision of the Permit.

Prior to revocation of the Permit, the District Board shall notify, in writing, the premises' owner, any tenant and the alleged violator that the Permit is intended to be revoked. The notice shall state the date of the proposed revocation, the reason(s) for the revocation, and the date, time and place a hearing will be held by the District Board upon the question of revocation of the Permit. The notice shall be mailed to the owner at the address shown on the records of the assessor of the County of Contra Costa, or as known to the District, and a copy shall be delivered to the tenant or posted conspicuously on the property. The hearing shall not be held sooner than ten (10) days following the giving of the required notice.

The owner, any tenant, the alleged violator, the District's representatives and any other Person the District Board deems appropriate may be heard at the hearing on the question of revocation of the Permit. The District Board shall make such orders as it deems appropriate under the circumstances and in furtherance of the purposes and intent of the Permit and other provisions of this Code. (Ord. No. 2010-103)(Ord. No. 2013-111)

10.11 ADMINISTRATIVE CIVIL PENALTIES

Pursuant to the authority of California Government Code Sections 54739 et seq., the District and its staff may issue administrative complaints, conduct administrative hearings and/or impose civil penalties in accordance with the procedures set forth in this Chapter for violation of the District's requirements relating to pretreatment of industrial

waste and/or the prevention of the entry of industrial waste into the District's collection system or treatment works.

These civil penalties are as follows:

- a) In an amount which shall not exceed two thousand dollars (\$2,000) for each day for failing or refusing to furnish technical or monitoring reports.
- b) In an amount which shall not exceed three thousand dollars (\$3,000) for each day for failing or refusing to timely comply with any compliance schedule established by the District.
- c) In an amount which shall not exceed five thousand dollars (\$5,000) per violation for each day for discharges in violation of any waste discharge limitation, permit condition, or requirement issued, reissued, or adopted by the District.
- d) In an amount which does not exceed ten dollars (\$10) per gallon for discharges in violation of any suspension, cease and desist order or other orders, or prohibition issued, reissued, or adopted by the District. (Ord. No. 93-69, Sec.5.1.5)(Ord. No. 2013-111)

10.12 SHOW CAUSE HEARING

10.12.1 Hearing.

The District may order any User who causes or allows an unauthorized discharge to enter the District's facilities to show cause before the District Board why the proposed enforcement action should not be taken. A notice shall be served on the User specifying the time and place of a hearing to be held by the District Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the User to show cause before the District Board why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation. (Ord. No. 93-69, Sec.5.1.6)

The District Board may itself conduct the hearing and take the evidence or may designate any of its members or any officer or employee of the District to:

- a) Issue in the name of the District Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- b) Take the evidence;
- c) Transmit a report of the evidence and hearing, including any transcripts and other evidence, together with recommendations to the District Board for action thereon.

10.12.2 Hearing Procedure.

At any hearing held pursuant to this Chapter, testimony taken must be under oath and may be recorded stenographically upon a request made at least 5 days before the hearing. The party making the request shall be responsible for the expense of a stenographic record. The transcript, if any, will be made available to any member of the public or any party to the hearing upon payment of any charges related to the request.

10.12.3 Hearing Order(s).

After the District Board has reviewed the evidence, it may issue an order to the User responsible for the discharge that, following a specified time period, the sewer service be discontinued unless treatment facilities, devices or other related appurtenances acceptable to the District have been installed and are operational. Further orders and directives as deemed necessary and appropriate may be issued by the District. (Ord. No. 93-69, Sec.5.1.6)(Ord. No. 2013-111)

10.13 LEGAL ACTION

10.13.1 If any Person discharges sewage, industrial wastes or other wastes into the District's Wastewater disposal system contrary to the provisions of this Code, Federal or State Pretreatment Requirements, or any order of the District, the District Legal Counsel may, upon Board direction, commence an action for appropriate legal and/or equitable relief in the Superior Court of Contra Costa County. (Ord. No. 93-69, Sec.5.1.7)

10.13.2 Court Injunctions.

Upon a determination by the District that a discharge of waste or Wastewater has occurred, is occurring, or is about to occur in violation of the provisions of the Code or of any provision of a Permit issued pursuant to the Code, and further that the User, occupant or owner of the premises has not complied with the provisions of a duly issued order as prescribed in Section 10.8 or has not complied with the terms and conditions of a time schedule as described in Section 10.8.2, approved by the District, then the violation shall be reviewed by the District Board, which may direct its Legal Counsel to seek a court injunction to compel the User, occupant or owner of the premises to do or to refrain from doing a specified act or acts in order to address the violation. (Ord. No. 2010-103, rev. Ord. No. 2013-111)

10.14 CRIMINAL PENALTIES

10.14.1 General Criminal Penalties.

Any person who violates any provision of this Code or who violates any Administrative Order, prohibition or applicable effluent limitation, is guilty of a misdemeanor, and upon conviction is punishable by a fine not to exceed One Thousand Dollars (\$1,000) or imprisonment for not more than thirty (30) days in the County jail, or both. Each day a violation occurs may constitute a new and

separate offense and may subject the violator to an additional full measure of penalties as set forth herein. (Ord. No. 93-69, Sec.5.1.8, rev. Ord. No. 2013-111)

10.14.2 Falsifying Information.

Any person who knowingly makes any false statements, representations, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Code, or Wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Code, shall upon conviction be punished by a fine of not more than One Thousand Dollars (\$1,000) or imprisonment for not more than thirty (30) days, or both. Each separate act of falsification, tampering, or knowingly rendering inaccurate shall constitute a new and separate offense and shall be subject to the penalties contained herein. (Ord. No. 93-69, Sec.5.1.8) Nothing in this section is intended to exclude the potential for prosecution under the applicable perjury statutes of the State of California to the extent such falsification was incorporated in a document signed under the penalty of perjury." (Ord. No. 93-69, Sec.5.1.8)(Ord. No. 2013-111)

10.14.3 Misdemeanor.

Section 6523 of the Health and Safety Code of the State of California provides that the violation of an ordinance, rule or regulation of a sanitary district is a misdemeanor punishable by fine not to exceed One Thousand Dollars (\$1,000.00), imprisonment not to exceed thirty (30) days or both. Each and every connection or occupancy in violation of this Code, the ordinances, rules and regulations of the District. shall be deemed a separate violation, and each and every day or part of a day a violation continues shall be deemed a separate offense hereunder and shall be punishable as such. (Ord. No. 93-68, Section 13.03)(Ord. No. 2013-111)

10.15 ENFORCEMENT

10.15.1 The General Manager of the Mt. View Sanitary District is hereby specifically authorized and required to enforce the provisions of this Code. (Ord. No. 50, Sec. 6)

In order to enforce the provisions of this Code, the District may correct any violation. The cost of such correction, including but not limited to District repair, monitoring, inspection and legal and engineering expenses, may be added to any Sewer Service Charge payable by the Person violating the Code or by the owner or occupant of the property upon which the violation occurred, and the District shall have such remedies for the collection of such costs as it has for the collection of Sewer Service Charges. The District may also petition the court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any Person from the continued violation of this Code. (Ord. No. 2010-103)

10.15.2 Time Schedules.

Upon a determination by the District that a violation of this Code or of any Permit issued pursuant to this Code has occurred, is occurring, or is about to occur, the District may establish a detailed time schedule of specific actions which the Person shall take in order to eliminate or prevent such violation. (Ord. No. 2010-103)

10.16 ENFORCEMENT COSTS

In any case where it is necessary for the District to pursue enforcement actions under this Code or otherwise as provided by law, any Person who is responsible for the condition which gave rise to the need for the enforcement action shall be responsible for and shall reimburse to the District all of the District's enforcement costs, including the costs of District staff, advisors, consultants, and legal counsel, unless waived by the District Board for good cause. (Ord. No. 2010-103)

10.17 REMEDIES CUMULATIVE

The remedies provided for in this Code are cumulative and not exclusive, and are in addition to any or all other remedies available to the District. Nothing in this Code shall be interpreted to, nor does it, relieve any Person from complying with other applicable provisions of law, including, without limitation, the rules and regulations promulgated by other governmental agencies that have jurisdiction and authority. (Ord. No. 2010-103)(Ord. No. 2013-111)