



DOC#: Non-compliance Procedure and Penalty Assessment	TITLE: Non- compliance Procedure and Penalty Assessment
DATE: 2/22/24	VERSION #: 1

1. PURPOSE

This Standard Operating Procedure (SOP) will outline procedures necessary to notify development or current property owner of a non-compliant drainage facility and the enforcement procedures thereafter to enforce District Rules, regulations and Guidelines.

2. PROCEDURES

1. **Inspection**- Inspection of facility by BDD4 inspections department upon receipt of concern or routine inspection. Inspection is documented and written report created.
2. **First Notice**- The DISTRICT will provide notice to any person found to be in violation of District Rules, Regulations, and Guidelines including, but not limited to, violations identified through an inspection. Written notice of a violation shall be given by certified mail and as may otherwise be deemed appropriate by the DISTRICT. A person or entity shall have thirty (30) days from the transmittal date of an initial notice to (i) rectify a deficiency and / or violation and demonstrate compliance with these Rules, Regulations, and Guidelines, (ii) request a remediation and maintenance plan, or (iii) request a variance pursuant to the terms outlined in Section 11 herein. Remediations and maintenance plans must be approved by the DISTRICT's Engineer. If a person fails to take any such corrective action within thirty (30) days from the transmittal date of an initial notice, the DISTRICT shall send a second notice of deficiency and / or violation.
3. **Second Notice**- If a person fails to respond or take appropriate corrective action to a notice of deficiency within thirty (30) days from the transmittal date of the initial notification, the matter will be referred to the District's attorney for which shall issue a second written notice of a violation by certified mail and as may otherwise be deemed appropriate by the DISTRICT.
4. **Failure to Comply**- If a person fails to respond to a notice of deficiency or take appropriate corrective action within sixty (60) days from the transmittal date of the initial notification, the matter shall be referred to the Board of Commissioners for assessment of civil penalties in accordance with the District Rules, Regulations and Guidelines.
5. **Notice of Hearing**- The District's attorney shall provide written notice to the person against who penalties are sought by certified mail, return receipt requested. If the identity of the Developer or Owner of the property in question is not known, the DISTRICT may provide written notice by placing such a written notice on the property itself in a manner calculated to attract the attention of the Owner or Developer of the property. The written notice shall be mailed or delivered to the Owner or Developer of the property in question at least fourteen days prior to the open meeting at which the assessment of civil penalties will be considered. The written notice shall advise the person, against who penalties are sought, of the following:
 - a. The date, time, and place of the hearing.
 - b. The minimum and maximum amount of penalties, which may be assessed by the District.
 - c. He/ she has the right to appear at the hearing before the Board of Commissioners concerning the penalties in question either in person or through a duly assigned agent.



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- d. He / she has the right to address the Board of Commissioners on the subject of penalties in question either in person or through a duly authorized agent.
 - e. He / she has the right to have legal counsel present if he / she so desires.
 - f. He / she has the right to present witnesses at the hearing or written data relevant to the subject matter or the hearing.
 - g. The rule or regulation of the DISTRICT that has been violated and a statement of the nature of the violation.
6. **Date of Hearing and Amount of Penalties Assessed**- Upon completion of the public hearing, all civil penalties assessed by the District must be authorized by a majority vote of commissioners present and voting.
7. **Notice of Penalties**- In the event that the DISTRICT assesses any civil penalties against any person, the DISTRICT shall provide written notice by certified mail, return receipt requested, advising the person subject to civil penalties of the following:
 - a. The nature of the violation.
 - b. The amount of the civil penalties.
 - c. The date by which the civil penalty is due.
8. **Payment of Penalties**- Payment of all civil penalties assessed by the District is due and owing thirty (30) days following the transmittal date of the written notice of assessed civil penalties.
9. **Delinquent Payment of Civil Penalties**- All unpaid civil penalties assessed by the District shall be referred to the District's collections attorney if not received within 44 days of the transmittal date of the written notice of assessed civil penalties.