

EL DORADO COUNTY FIRE PROTECTION DISTRICT
STANDARD OPERATING GUIDELINE

ARTICLE 7: PREVENTION

EFFECTIVE DATE: 04-01-1993

SECTION 2: CITATION POLICY

REVISED: 04-01-1993

- 7.2.1 **PURPOSE:** To gain compliance with the state and local codes, ordinances, and regulations, when all reasonable efforts have been unsuccessful.
A course of action to be taken when a condition exists that causes an immediate and/or extreme threat to life or property from fire or explosion.
- 7.2.2 **POLICY:** The Fire Prevention Bureau shall be responsible for the enforcement of laws and regulations for the safeguarding, to a reasonable degree, of life and property from the hazards of fire and explosions and from conditions hazardous to life and property in the use or occupancy of buildings or premises and their contents.
- 7.2.3 It is the intent of the Fire District to achieve compliance by traditional means of inspections, notification, granting time to comply, and re-inspection. The citation shall be used only after all reasonable means to gain compliance have failed or, with proper justification, at the discretion of the Fire Chief.
- 7.2.4 Only those personnel of the Fire District specifically designated by the Fire Chief may issue citations.
- 7.2.5 The adoption of the Uniform Fire Code is contained in Ordinance No. 92-01 and established the procedure for handling violations of said code and applicable Fire District ordinances.
- 7.2.6 **AUTHORITY:**
1. Ordinance No. 93-1 grants authority to use citations for violations of the Uniform Fire Code.
 2. Uniform Fire Code Sections 2.205 (a) states that the Fire Chief is authorized to issue such orders as may be necessary for the enforcement of the fire prevention laws and ordinances.
 3. Pursuant to California Penal Code, Section 836.5, citations for misdemeanors, and any local or state code applicable to fire and life safety may be cited.
- 7.2.7 **PENALTY:** Not more than \$500.00 fine; imprisonment not more than 6 months; or both. A misdemeanor. Each day is a separate offense.
- 7.2.8 **MATERIALS HELPFUL IN WRITING CITATIONS:**
1. Uniform Fire Code
 2. List of court holidays
 3. List of common codes and violations
- 7.2.9 **OFFICER'S DEMEANOR:**

The manner in which the officer conducts his/her relationship with the violator is of paramount importance. It has an effect on the violator's attitude throughout the duration of the citing period and a strong bearing on public opinion concerning this district. A courteous and business-like demeanor must be displayed, and at NO TIME should the officer enter into an argument. Remember, most violators blame the officer, not themselves. An alert, confident manner and a reasonable attitude may affect the violator, creating a more favorable atmosphere for the issuance of the citation.

7.2.10 SALUATIONS OR INTRODUCTIONS

It is very important for the officer to adequately introduce himself/herself to establish his/her identity and the purpose of his/her presence to the person in charge of the premises.

7.2.11 REASONS TO ISSUE CITATION

Citations will normally be issued on the first visit. When routine violations of the applicable fire code are encountered, citations will generally be issued following the third visit or second inspection.

If code compliance has not been obtained on the second visit or the first reinspection, the inspector should mention the possibility of citation and the need to issue one. In all cases, adequate time shall be provided between inspections. This will vary with the seriousness of the violation and the complexity of the work to be done.

In those instances where the time limit for compliance has expired but the violator is doing his or her best to comply and no immediate fire or life safety hazard exists, the decision not to issue a citation can be made by the inspector.

7.2.12 ISSUANCE OF CITATION

The person responsible for the premises must sign the citation (Notice to Appear). This may be the owner, leaser, or manager, but the citation must be issued to the responsible person.

7.2.13 MAKING THE ARREST (ISSUE CITATION)

A citation for a misdemeanor offense is an arrest. The violator's signature is a promise to appear as instructed and the violator is released upon his signing. Refusal to sign would require a physical arrest. (See Refusal to Sign Citation, below.)

After the officer has made the decision to arrest, he/she should make the arrest by notifying the violator that he/she is arrested, the cause for the arrest, and the authority to make the arrest (enabling state or local law).

7.2.14 REFUSAL TO SIGN CITATION

The citation is a release stating that the defendant will appear in court or post bail in lieu of physical arrest. In extreme cases, one may encounter an individual who will refuse to sign the citation. After all reasonable efforts have been pursued and a signature is not obtainable, the fire prevention officer will summon a police officer or sheriff, explain the situation to him, and request a physical arrest (Penal Code Section 839).

7.2.15 ACCOUNTABILITY

Each citation is numbered and accounted for. A list of all citations will be maintained in the headquarters (fire prevention office).

If a mistake is made while a citation is being written, it shall be voided and the office copy given to the fire prevention office.

7.2.16 PROCEDURE:

7.2.14 ROUTINE VIOLATIONS:

- 7.2.14.1 A written notice shall be issued whenever a code violation is encountered. The notice shall be issued to the person responsible for the premises or his authorized representative.
- 7.2.14.2 The time established for re-inspection may vary depending on circumstances but generally within 15 to 30 days, one of the following should occur:
 - a. Compliance with all requirements
 - b. Partial compliance with a designated re-inspection date
 - c. Satisfactory proposal for compliance with an agreed upon time for completion
 - d. A final notice issued with a warning of pending legal action.
 - e. The amount of time permitted for compliance shall depend upon the hazard and the danger created by the violation. Excessive time for compliance may weaken the fire district's position in the event legal action is required.
- 7.2.14.3 When deemed necessary by the enforcing agency, a pre-citation letter may be issued to warn of a pending citation (see sample letter).

7.2.15 IMMINENT HAZARDS

- a. Order hazard abated
- b. If the hazard is abated as requested, follow with a pre-citation letter advising of a citation procedure for future or similar violations. Citation may be issued if it is a repeat violation.
- c. If the hazard is not abated, inspector takes action necessary to abate hazard and citation is issued immediately.

7.2.16 TRANSIENT VIOLATORS (violations not occurring at a permanent place of business)

- a. Violations involving persons who are transient are handled by a citation or by arrest if the violation is committed in the inspector's presence.
- b. When a physical arrest is necessary, a local law enforcement officer (sheriff or police) shall be requested to take the violator into custody and to ensure proper procedures are followed.

7.2.17 CITATION PROCEDURES:

- A. Adults being cited (18 years or older) must be able to be reached in the event a bench warrant is issued.

- B. Adults cited shall be cited to the local municipal court.
- C. Juveniles shall be cited to the local juvenile court.
- D. Citation books shall be issued by citation number to the assigned inspector. The inspector is accountable for each citation by number.
- E. Citation books shall be filled out completely and correctly and all pertinent information entered.
- F. When the citation is written and completed, copies will be distributed as follows:
 - a. Cited person's copy—given to violator
 - b. Court copy (original)—attach copies of inspection notices and a summary sheet and deliver to the local municipal court.
 - c. File copy (fire district's copy)—forward to the fire chief's office; a duplicate shall be returned to the fire prevention office for the occupancy file.
- G. The fire prevention bureau shall keep a log entering each citation and final disposition.

7.2.18 RESTRICTIONS:

1. Citations shall be issued only after all responsible means to gain voluntary compliance have been exhausted as supported by documentation.
EXCEPTION: Citations issued for violations which present imminent life hazards such as trespassing in a closed area, smoking in a closed or restricted areas, failure to obey lawful orders of a firefighter, faulty equipment or procedures, and violations of a similar nature will not require prior justification.
2. Citations shall be used only by qualified officers designated by the Fire Chief.

7.2.19 USE OF CITATION

1. Citations shall be used only where a violation of a specific section of the appropriate code or ordinance has occurred.
2. Documentation establishing prior efforts to gain compliance shall be in evidence.

EXCEPTION: Citations issued for violations which present imminent life hazards such as trespassing in a closed area, smoking in a closed or restricted area, failure to obey lawful orders of a firefighter, faulty equipment or procedures, and violations of similar nature will not require prior justification.
3. Issuing person shall be qualified as required by state law.
4. The offense for which the citation is issued shall be a misdemeanor not a felony.
5. The date to appear as shown on the citation shall be as set forth by the local municipal court from the date of issuance.
6. Whenever the issuing person questions the uncertainty of releasing the violator upon signing the citation on his promise to appear, the assistance of a sheriff or police officer should be requested.
7. All violations shall be indicated on the citation with reference to the appropriate code or regulation, including the specific section number.
8. All violations as shown on the citation shall be explained to the violator prior to his signing.