

EL DORADO HILLS COUNTY WATER DISTRICT

EDHCWD

ORDINANCE NO. 2023-02

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE EL DORADO
HILLS COUNTY WATER DISTRICT AS FOLLOWS:

**AN ORDINANCE OF THE EL DORADO HILLS COUNTY WATER DISTRICT ADOPTING AN
ADMINISTRATIVE CITATION PROGRAM.**

Be it ORDAINED by the Board of Directors (Board) of the El Dorado Hills County Water District (EDHCWD), also known as the EDHCWD:

Section 1: **AUTHORITY**

Section 2: **FINDINGS OF FACTS**

Section 3: **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 4: **APPLICABILITY**

Section 5: **DEFINITIONS**

Section 6: **PRE-CITATION NOTICE AND ADMINISTRATIVE CITATION**

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SECTION 1: AUTHORITY

- 1.1 This Ordinance is enacted pursuant to the authority of the California Health & Safety Code Sections 13861, 13871, 13872, and California Government Code Sections 25132 and 53069.4.

SECTION 2: FINDINGS OF FACTS

- 2.1 The El Dorado Hills County Water District also known as the EDHCWD, is an independent water district established under Division 12, Part 2, Article 7, Section 31120¹ of the State Water Code; and
- 2.2 EDHCWD is empowered to provide fire protection services and to enforce violations of the California Fire Code, as adopted and amended by the EDHCWD, California Health and Safety Code, the regulations of the State Fire Marshal, and all District ordinances; and
- 2.3 Under state law, the Fire Chief and his designees may issue written orders to eliminate fire or life hazards, issue administrative citations for misdemeanor violations and infractions, and order dangerous conditions abated; and
- 2.4 A comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to ensure that EDHCWD can protect the public's health, safety, and quality of life.

SECTION 3: CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

¹ A district may exercise any of the powers, functions, and duties which are vested in, or imposed upon, a fire protection district pursuant to the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health and Safety Code.

- 3.1 This Ordinance is exempt under the California Environmental Quality Act pursuant to California Code of Regulations Title 14, Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption of this Ordinance would have a significant effect on the environment. The Ordinance sets procedures for ensuring compliance with the Fire Code and other EDHCWD ordinances. The adoption of this Ordinance does not entitle new development or any changes to the physical environment. Use of this Ordinance is at the sole discretion of EDHCWD. This Ordinance is authorized under California Government Code Sections 25132 and 53069.4, and California Health and Safety Code Sections 13861(h) and (i), 13871, and 13872.

SECTION 4: APPLICABILITY

- 4.1 This Ordinance provides for Administrative Citations, which are in addition to all other legal remedies, criminal or civil, that EDHCWD may pursue to address a violation of a EDHCWD ordinance, including the California Fire Code, as adopted, and amended by the EDHCWD, or other public nuisance. This Ordinance is authorized under California Government Code Sections 25132 and 53069.4, and California Health and Safety Code Sections 13861(h) and (i), 13871, and 13872.

SECTION 5: DEFINITIONS

As used in this Ordinance, the following definitions shall apply:

- 5.1 **Board** means the Governing Board for the El Dorado Hills County Water District.
- 5.2 **California Fire Code (CFC)** means code provisions found within California Code of Regulations Title 24, Part 9, as amended locally by EDHCWD.
- 5.3 **Citation or Administrative Citation** means a civil citation issued by a Fire Code Official pursuant to this Ordinance stating there has been a violation of one or more provisions and setting the amount of the civil penalty to be paid by the Responsible Person.
- 5.4 **Code** means the EDHCWD ordinance, California Fire Code, California Building Code, Code of Federal Regulations, and/or California Health and Safety Code.
- 5.5 **Days** means calendar days.
- 5.6 **EDHCWD** means the El Dorado Hills County Water District of El Dorado County, a political subdivision of the State of California.

- 5.7 **Fire Code Official** means the Fire Chief or other designated authority charged with the administration and enforcement of the code, or a duly authorized representative.
- 5.8 **Pre-Citation Notice** means the written notice provided to a Responsible Person of a violation of the Code that does not create an immediate danger to health or safety.
- 5.9 **Responsible Person** means the owner, tenant, operator, or person or entity otherwise in charge and control of property that is the subject of a violation, or who is otherwise causing, permitting, or aiding and abetting in any violation of the Code.
- 5.10 **Violation** means a violation of the Code for which the Fire Code Official has authority to issue an Administrative Citation or Pre-Citation Notice.

SECTION 6: PRE-CITATION NOTICE AND ADMINISTRATIVE CITATION

- 6.1 Pre-Citation Notice. Except as provided in Subsection 6.2 below, prior to issuing an Administrative Citation for a Violation of the Code, the Fire Code Official shall serve a Pre-Citation Notice on the Responsible Person containing the following information:

- 6.1.1 The date the Violation was observed;
- 6.1.2 The address or a definite description of the location where the Violation was observed;
- 6.1.3 The section of the Code violated and a description of the Violation;
- 6.1.4 The compliance date by which the Violation must be corrected or otherwise remedied, which shall be a reasonable period of no less than fifteen (15) days and no more than sixty (60) days from the date of the Pre-Citation Notice as determined by the Fire Code Official.
- 6.1.5 A statement that if the Violation is not corrected by the specified compliance date, an Administrative Citation will be issued that imposes a fine, the amount of which shall be specified; and
- 6.1.6 The name, title and signature of the Fire Code Official issuing the Pre-Citation Notice.

6.2 Exceptions from Pre-Citation Notice Requirements

- 6.2.1 If the Violation of the Code constitutes an immediate danger to health or safety, the Fire Code Official may issue an Administrative Citation without first issuing a Pre-Citation Notice.

6.2.2 If the Fire Code Official issued an Administrative Citation to the Responsible Person for a violation of the Code in the immediately preceding calendar year and the Responsible Person has violated the same provision of the Code, the Fire Code Official may issue an Administrative Citation without first issuing a Pre-Citation Notice.

6.3 Reinspection. Upon or after the compliance date set forth in the Pre-Citation Notice, the Fire Code Official shall inspect the property and determine if the Violation has been corrected upon which one of the following remedies shall occur:

6.3.1 If the violation has been corrected, the Fire Code Official shall serve on the Responsible Person a notice that the Violation has been corrected.

6.3.2 If the Violation has not been corrected or if the Violation has recurred, the Fire Code Official shall serve on the Responsible Person an Administrative Citation as set forth in Subsection 6.4 of this Ordinance.

6.4 Administrative Citation. Whenever a Fire Code Official determines that a Violation has occurred, the Fire Code Official shall have the authority to issue an Administrative Citation to any Responsible Person for the Violation, subject to the limitations contained in Subsection 6.1 of this Ordinance.

6.5 Contents of Administrative Citation. Each Administrative Citation shall contain the following information:

6.5.1 The date of the Violation;

6.5.2 The address or a definite description of the location where the Violation occurred;

6.5.3 The section of the Code violated and a brief description of the Violation;

6.5.4 The amount of the fine for the Violation;

6.5.5 A description of the fine payment process, including a description of the time within which and the place where the fine shall be paid;

6.5.6 An order prohibiting the continuation or repeated occurrence of the Violation described in the Administrative Citation;

6.5.7 A description of the Administrative Citation review process, including the thirty (30) day deadline for requesting a hearing to contest the Citation under Section 9 of this ordinance and the ten (10) day deadline for seeking an Advance Deposit Hardship Waiver under Section 10 of this Ordinance, the procedure for obtaining from the

District Clerk a request for hearing form to contest the Administrative Citation, and notice that failure to contest the Administrative Citation will make the Citation a final action by EDHCWD for which there is no further administrative review and no judicial review;

6.5.8 A statement explaining that each day the Violation occurs or continues may constitute a separate Violation; and the name, title, and signature of the citing Fire Code Official;

6.5.9 The name and signature of the Fire Code Official issuing the Administrative Citation.

SECTION 7: AMOUNTS OF FINES, LATE PAYMENT CHARGES, AND INTEREST

7.1 Fine Amounts. The maximum amount of the fine imposed for each Violation under this Ordinance shall be:

7.1.1 A fine not exceeding one hundred dollars (\$100) for a first Violation; and

7.1.2 A fine not exceeding five hundred dollars (\$500) for a second Violation of the same Code provision within one calendar year; and

7.1.3 A fine not exceeding one thousand dollars (\$1,000) for each additional Violation of the same Code provision within one calendar year.

7.2 For the purposes of this section, each day the Violation occurs constitutes a separate violation.

7.3 Late Payment Charges and Interest. A fine that remains unpaid 30 days after the due date under Subsections 7.1.1, 7.1.2, or 7.1.3 of this Ordinance shall be subject to a late payment penalty of ten percent (10%), plus interest at the rate of one percent (1%) per month on the outstanding balance, which shall be added to the penalty amount from the date that payment is due. Any fine or fee which remains unpaid 90 days after the due date may be referred for collection purposes and will be subject to additional fees to cover the cost of collection.

7.4 Discretion of Board to Establish Fine. The EDHCWD Board has the discretion to waive the fine or to set the fine lower than the amount set in Subsection 7.1 based on one or more of the following factors:

- 7.4.1 The duration of the Violation;
- 7.4.2 The frequency, recurrence, and number of Violations by the Responsible Person;
- 7.4.3 The seriousness of the Violation;
- 7.4.4 The bona fide efforts of the Responsible Person to come into compliance;
- 7.4.5 The financial burden of the fine on the Responsible Person;
- 7.4.6 The impact of the Violation on the community health and safety; and
- 7.4.7 Such others factors as justice requires.

SECTION 8: PAYMENT OF THE FINE

- 8.1 Due Date. The fine shall be paid to EDHCWD within 30 days following the date of the Administrative Citation. The Fire Code Official or designee may, but shall not be obligated to, suspend the imposition of a fine for any period during which the Responsible Person has filed for permits that are necessary to achieve compliance and the permit applications are pending before the appropriate governmental agency.
- 8.2 Further Violations Not Excused. Payment of a fine under this Ordinance shall not excuse or discharge any continuation or repeated occurrence of the Violation.

SECTION 9: REQUEST FOR HEARING; DISMISSAL OF CITATION

- 9.1 Hearing Request. A person who receives an Administrative Citation may contest the Citation on the basis that there was no Violation, or that he or she is not the Responsible Person, or may seek a reduction in the amount of a fine imposed for a repeat Violation on the grounds that he or she made a bona fide effort to comply after the first Violation and that payment of the full amount of the fine would impose an undue financial burden. To contest the Administrative Citation or seek a reduction of the fine imposed for a repeat violation, the Responsible Person shall submit a request for a hearing to the District Clerk within 30 days following the date of the Administrative Citation. The request form may be obtained from the Administrative Office of the EDHCWD. The completed request must be submitted together with either an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed under Section 10 of this Ordinance.

- 9.2 Dismissal of Citation. At any time before the hearing, if the Fire Code Official or designee determines that there was no Violation as charged in the Administrative Citation, that the Violation has been remedied, or that the Administrative Citation should be dismissed in the interest of justice, the Fire Code Official or designee shall dismiss the Administrative Citation, cancel the hearing, and refund any Administrative Citation fine deposited.

SECTION 10: ADVANCE DEPOSIT HARDSHIP WAIVER

- 10.1 Request for Waiver. A Responsible Person who intends to contest an Administrative Citation under Section 9 of this Ordinance and who financially is unable to make the required advance deposit of the fine, may file a request for an advance deposit hardship waiver.
- 10.2 Filing. An advance deposit hardship waiver shall be filed with the District Clerk on a form provided by the EDHCWD. The application submitted shall include an affidavit, together with any supporting documents or materials, demonstrating the person's actual financial inability to deposit with EDHCWD the full amount of the fine. The waiver form shall be filed within 10 days following the date of the Administrative Citation.
- 10.3 Deposit Requirement Stayed. The requirement of advance deposit of the fine shall be stayed until EDHCWD issues a determination on the application for an advance deposit hardship waiver.
- 10.4 Standard for Waiver. The Fire Marshal or Fire Chief may waive the requirement of an advance deposit under Section 9 of this Ordinance and issue the waiver only if the evidence submitted demonstrates to the satisfaction of the Fire Marshal or Fire Chief the person's actual financial inability to deposit with EDHCWD the full amount of the fine in advance of the hearing.
- 10.5 Written Determination. The Fire Marshal or Fire Chief shall issue a written determination listing the reasons for his or her determination to issue or not issue the advance deposit hardship waiver. The written determination of the Fire Marshal or Fire Chief is final.
- 10.6 Deposit Required If Waiver Denied. If the Fire Marshal or Fire Chief determines not to issue a waiver, the person cited shall deposit the fine with the District Secretary within 10

days following the date of that decision, or 30 days following the date of the Administrative Citation, whichever is later.

SECTION 11: HEARING PROCEDURE

- 11.1 Setting the Hearing. A hearing before the District Board of Directors shall be set for a date that is not less than 15 days no more than 60 days from the date that the request for hearing is filed. The person requesting the hearing shall be notified of the time and place set for the hearing as soon as it is set, and at least 10 days before the hearing. No hearing shall be held unless the fine has been deposited in advance, in accordance with Subsection 9.1, or an advance deposit hardship waiver has been issued in accordance with Section 10.
- 11.2 Failure to Appear. The failure of the person requesting the hearing to appear at the hearing shall constitute a forfeiture of the fine and a failure to exhaust his or her administrative remedies.
- 11.3 Hearing. The Administrative Citation and any supplemental report submitted by the Fire Code Official shall constitute prima facie evidence of the respective facts contained in those documents. At the hearing, the Responsible Person contesting the Administrative Citation shall be given the opportunity to testify and to present evidence concerning the Administrative Citation. Formal rules of evidence shall not govern the hearing. The EDHCWD Board may accept testimony by declaration related to the Administrative Citation from any party.
- 11.4 Continuance. The EDHCWD Board may continue the hearing from time to time and may request additional information from the Fire Code Official or the Responsible Person requesting the hearing before issuing its decision.

SECTION 12: BOARD'S DECISION

- 12.1 Decision. After considering the testimony and evidence presented at the hearing, the EDHCWD Board shall issue a written decision by resolution, supported by findings, to uphold, dismiss, or modify the Administrative Citation, and setting the amount of the fine, if any. The Board Secretary shall deliver a copy of the resolution to the person requesting

the hearing. The Board's resolution shall constitute the final administrative decision by the EDHCWD Board. The resolution shall state that the time for judicial review of the Board's decision is governed by California Government Code Section 53069.4.

- 12.2 Status of Fine. If the EDHCWD Board upholds the Administrative Citation and the fine, the fine amount on deposit with EDHCWD shall be retained by the District. If the EDHCWD Board upholds the Administrative Citation but reduces or eliminates the fine imposed, the EDHCWD shall promptly refund the excess amount of the fine deposited. If the EDHCWD Board upholds the Administrative Citation and the fine, and the fine has not been deposited, the Board shall set forth in the decision a payment schedule for the fine and any additional charges, which shall not extend more than one hundred and eighty (180) days from the date of the decision. If the EDHCWD Board dismisses the Administrative Citation, the EDHCWD shall promptly refund any fine deposited, together with interest at the average rate earned on the EDHCWD portfolio for the period of time that the fine was held by the EDHCWD.

SECTION 13: RECOVERY OF FINES, LATE CHARGES, AND INTEREST

- 13.1 Cost of Securing Payment. A Responsible Person who fails to pay any fine or other charge owed to the EDHCWD under this Ordinance is liable in any action brought by the EDHCWD for all costs incurred in securing payment of the delinquent amount, including but not limited to, administrative costs and attorney's fees. Such collection costs are in addition to any fines, interest, and late charges.
- 13.2 Other Costs. In addition to the administrative citation fine, the EDHCWD may collect its administrative costs, interest, late payment charges, cost of compliance reinspections, and collection costs.
- 13.3 Collection. THE EDHCWD may collect any past due administrative citation fine and other costs and charges by any available legal means.
- 13.4 Liens. To the fullest extent allowed by law and after notice and a hearing before the Board, the amount of the unpaid sanction plus interest and a reasonable administrative fee established by the Board to cover the cost of collection may be declared a lien on any real property owned by the responsible party.

- 13.4.1 Notice shall be given to the responsible party prior to the recordation of the lien and shall be served as required by this chapter.
- 13.4.2 The lien shall attach when the Fire Chief or his or her designee records a lien listing delinquent unpaid sanctions with the El Dorado County Recorder's Office. The lien shall specify the amount of the lien, the date of the Code violation, the date of the final administrative decision, the street address, legal description, and parcel number of the parcel on which the lien is imposed and the name and address of the recorded owner.
- 13.4.3 In the event that the lien is satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in Subsection 13.4.2 of this section shall be recorded by the County Recorder.

SECTION 14: RIGHT TO JUDICIAL REVIEW

- 14.1 Any person aggrieved by the decision of the Board on an Administrative Citation issued under this Ordinance may obtain review of the decision by filing a notice of appeal with the El Dorado Superior Court within twenty (20) days of the service of the Board's decision in accordance with the provisions of California Government Code Section 53069.4.

SECTION 15: NOTICES

- 15.1 Method of Service. Any Pre-Citation Notice, Administrative Citation, notice of hearing, written determination on application for advance deposit hardship waiver, supplemental report, Board's decision, and any other notice or document required to be given by EDHCWD or the Board pursuant to this Ordinance shall be served either by:
 - 15.1.1 Personal service on the Responsible Person or the person requesting the hearing;
or
 - 15.1.2 By deposit in the United States Mail first class, in a sealed envelope postage prepaid, addressed to the Responsible Person or the person requesting the hearing at that person's last known address, or at the address that has been provided to EDHCWD in any public record or other records pertaining to the Violation.
 - 15.1.3 Service shall include a declaration under penalty of perjury setting forth the date of personal delivery or, for service by mail, the date of deposit in the mail. Service by

personal delivery shall be deemed complete on the date of the delivery. Service by mail shall be deemed complete on the date of deposit in the mail.

15.2 Real Property. When real property is involved in the Violation and the Responsible Person is not the property owner, any Pre-Citation Notice, the Administrative Citation and all notices and documents required to be given by this Ordinance shall be additionally served on the property owner at the property owner's address as shown on the last equalized County assessment roll. If personal service or service by mail on the property owner is unsuccessful, a copy of any Pre-Citation Notice, Administrative Citation, and all other notices and documents required under this Ordinance shall be conspicuously posted at the property that is the subject of the Violation. EDHCWD may also, in its discretion, serve notices and other documents on a tenant, a mortgagor, or any other person having an interest in the property.

15.3 Failure to Receive Notice. The failure of the Responsible Person or other person to receive a required notice or document served in accordance with this Section of this Ordinance shall not affect the validity of any proceedings taken under this Ordinance.

SECTION 16: CONFLICT

16.1 The operation of this Ordinance shall in no way change or diminish the application of other ordinances of EDHCWD dealing with like or similar matters. In any case where a provision of this Ordinance is found in conflict with a provision of any zoning, building, fire safety, or health ordinance or any other section of the Code, including fines, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

16.2 It is not intended by this Ordinance to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances or with private restrictions placed upon property by covenant, deed, or other private agreement except those specifically repealed by this Ordinance. In cases where two or more provisions of this or any other Ordinance conflict, the most stringent or restrictive shall prevail.

SECTION 17: SEVERABILITY

- 17.1 If any article, subsection, or subdivision, provision, sentence, clause or phrase of this Ordinance, or any application thereof, is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the remaining provisions of this Ordinance, which can be given effect without the invalid portions and, therefore, such invalid portions are declared to be severable.
- 17.2 The EDHCWD hereby declares that it would have enacted this Ordinance and each of its articles, sections, subsections, or subdivisions, or any provisions, sentences, clauses, or phrases irrespective of the fact that one or more of them is declared invalid.

SECTION 18: EFFECTIVE DATE AND PUBLICATION

- 18.1 This Ordinance shall take effect 30 days after its adoption. The EDHCWD Board Secretary is directed to publish this Ordinance in a newspaper of general circulation in the District. In lieu of publication of the full text of the ordinance, a summary of the ordinance may be published by the by the Board Secretary within fifteen (15) days after its passage and a certified copy shall be posted in the office of the EDHCWD pursuant to Government Code Section 36933(c) (1).
- 18.2 The above Ordinance was introduced at a meeting of the Board of Directors of the EDHCWD on September 21, 2023 and it was then read for the first time. A public hearing was set for the Ordinance to be read for the second time on October 19, 2023 and approved by the following vote:

PASSED AND ADOPTED by the Board of Directors of the EDHCWD this, 19th day of October, 2023.

AYES: 5

NOES: 0


ABSENT: 0

ABSTAIN: 0



John Giraudo, Board President

ATTEST:



Jessica Braddock, Board Secretary

