

State Fire Prevention Code Enforcement by Citation

Spring 2010

Introduction

- Office of State Fire Marshal
 - DSFM Barry Rickert
 - Joe Kingston

State Fire Prevention Code

- What do we have today?
 - CGS Chapter 541
 - CT State Fire Safety Code
 - CT Explosives Code
 - CT Fireworks & Special Effects Code
 - CT Flammable & Combustible Liquids Code
 - CT Gas Equipment & Piping Code
 - CT Hazardous Chemical Code



What do we have today contd...

- CT Liquefied Petroleum Gas & Liquefied Natural Gas Code
- CT Oil Burning Equipment Code
- CT Moving Picture Theater Code
- CT Tent & Portable Shelter Code
- Space Heater Statute
- Etc.....

State Fire Prevention Code

- How are we going to get there?
 - CGS 29-291a – 29-291d (revised to 1/1/09)
 - Started as PA 04-59,
 - amd. PA 07-84 & 08-65, 09-177
 - Adjusted effective date
 - Added Modification process
 - Added Abatement
 - Added SFM review of LFM decision



State Fire Prevention Code

- CGS 29-291a
 - Fire Prevention Code Adoption & Revision
 - SFM & Advisory Committee - adopt & administer
 - Effective originally 1/1/05, now 7/1/2010
 - Advisory Committee (9 members)
 - » 2 – Codes & Stds Comm.
 - » 7 – FM/DFM/FI from list submitted by CFMA
 - SFM may issue official interpretations upon request of any person, complete an index and publish at intervals not exceeding 4 months.

State Fire Prevention Code

- CGS 29-291b
 - Modification process – same as the CSFSC.
 - Practical difficulty, unnecessary hardship, adjudged unwarranted
 - LFM to forward within 15 days
 - LFM comments on the merits

State Fire Prevention Code

- CGS 29-291c
 - Abatement, injunction, **citation**, penalties
 - Abatement == same as the CSFSC
 - **Citation** -*Alternative* to abatement order- LIMITED

State Fire Prevention Code

- CGS 29-291d
 - SFM review of LFM decision; Appeal
 - SFM to review LFM decision on matters pertaining to the CSFPC upon the request of any person determined to have the right to appeal OR when the SFM has reason to believe LFM has misconstrued or misinterpreted the code.
 - Issue determination / order
 - To LFM, in writing, registered mail
 - Any person appeal to the SFM decision to the superior court for the jurisdiction where the premises is located.

State Fire Prevention Code

- Implement ??? (7-1-2010?)
- 2009 Legislative Package
 - Touching approx 38 statutes
 - Not all for FPC
 - Not all in Chapter 541
 - 7 Statutes effective 10/2009
 - 30 Statutes effective 1/2012 (Spec Haz)

State Fire Prevention Code

- Regulation Review 1/26/2010
 - Rejection without prejudice
 - 18 Substantive concerns
 - 42 Technical corrections

Vacate Order (Not part of FPC)

- *Statutory Enforcement Method*
Statutory change: PA 08-65 - modified 29-306 (c)
 - **The Five Deadly Sins**
 - Blocked, insufficient or impeded egress
 - Failure to maintain/shutting off of fire protection or warning system required by code
 - Storage of flammable or explosive material w/o permit
 - Use of firework/pyrotechnic w/o permit
 - Exceeding the occupant limit

Vacate Order- Cont'd

(Not part of FPC)

- **Statutory Enforcement Method**

Statutory change: PA-09-177 section 6 - modified 29-306 (c) further:

Such officer or FM shall notify or submit a copy of such order; If problem cannot be abated in 4 hrs or less SFM to review order and after consultation with FM/PO:

Uphold
Modify
Reverse

Who has the Authority?

- CGS 29-291c (c)

- State Fire Marshal

- Local Fire Marshal

- CGSC 29-298 (c) LFM may authorize issuance of permit or order to certify compliance with CSFSC.

- Does NOT mention

- » CSFPC

- » Citations

- So LFM ONLY!

Fire Prevention Code

- **Citation Process**

- Alternative to abatement order

- Directive #3

- Fine \$200 - \$ 1000 and or 6 months CGS 29-291c (e)

- Civil penalty \$50.00/day recovered in the name of the state.29-291c (a)

- LIMITED - Scope & Application

- Once every 6 months for the same violation

- FPC Articulates specific code sections

- Use JD-CR-2 Complaint Ticket

- Signed by FM and person

- Fine NMT \$250.00

- 90% back to municipality

Fire Prevention Code

- *29-291a-10 New Enforcement Method*
 - Citation Process
 - 10 issues
 - Many now in CSFSC Part V *
 - 1.12 Operating w/o a permit
 - 10.15.9 Naturally cut Christmas Tree*
 - 10.8, 13.1.7 failure to maintain or shutting off fire protection or warning system *
 - 14.4.1, 14.4.3, 14.4.3.1 Blocked, insufficient, egress *

Fire Prevention Code

- *29-291a-10 New Enforcement Method cont'd*
 - Chapter 16 Safeguards during building construction
 - 20.1.4.8.3 Exceeding occupancy limits *
 - 20.12.2.4 Storage & display of consumer fireworks *
 - Chapter 41 Hot work operations
 - 50.5 Use & maintenance of commercial cooking *
 - 65.11.1.5 Retail sales of consumer fireworks

Legal Review

Attorney Judith Dicine

Fire Prevention Code
CGS 29-291c

Fire Marshal's Powers and
Duties

FPC CGS 29-291c

- Entitled:
State Fire Prevention Code: Abatement of certain conditions, injunction, citation, penalties.
- Includes two abatement choices for fire marshal enforcement of the FPC:
Abatement or Citation

CHOICE #1: CGS 29-291c(a)
FPC Abatement Order

- Power to enforce the FPC is given to both the State and any local fire marshal.
- Requires marshal to order the owner or occupant of building or premises to remedy conditions violating the FPC.
- Provides criminal and civil penalty.

FPC Abatement Order
Penalties for Violation
CGS 29-291c(a)

- Criminal
 - Fine of \$200 – \$1000, six months imprisonment or both
 - Brought by the Office of the CT State's Attorney
- Civil
 - Fine of \$50 for each day of continuance of violation
 - Brought by the Office of the CT Attorney General

CGS 29-291c(b)
Violation of FPC Abatement Order

- Marshal shall promptly notify the local prosecuting attorney of all relevant facts
 - mandatory
- Marshal may request local Chief Executive Officer or other official authorized to institute actions for the municipality to seek an injunction to close or restrict use
 - discretionary

CHOICE #2: CGS 29-291c(c)
FPC Citation

- Available as an alternative to issuing a FPC abatement order under CGS section 29-291c(a).
- May be written to owner or occupant for violation of FPC, min. age 16.
- Limited use: one citation per person for the same violation within six months of current violation. Use abatement if not available.

CGS 29-291c(c)
FPC Citations, cont.

- Citation must contain:
 - Name of the alleged violator
 - Address of the alleged violator
 - Specific offense (statute and regulation)
 - Time and place of alleged violation
 - Signature of marshal and alleged violator

NOTES:

- add date of birth of the alleged violator (if known).
- grab a picture if you can.

CGS 29-291c(c)
FPC Citations, cont.

- The available FPC sections for citation will be set forth in the FPC regulation when approved by the CT General Assembly.
- Current list is set forth in the proposed DPS FPC regulation (DPS # 2009-067) as section 29-29-291a-10.

Proposed FPC Citable Offenses

§ Sec. 29-291a-10. Enforcement by Citations
The following chapters or sections of this code may be enforced through the use of the citation process pursuant to section 29-291c of the Connecticut General Statutes.

Chapter/Section	Subject Matter
Section 1.12	Operating without a permit required by local ordinance
Section 10.15.9	Provisions for Naturally Cut (Christmas) Trees
Sections 10.8, 13.1.7	Failure to maintain or the shutting off of any fire protection or fire warning system required by the Connecticut State Fire Safety Code
Sections 14.4.1, 14.4.3, 14.4.3.1	Blocked, insufficient or impeded egress
Chapter 16	Safeguards During Building Construction, Alteration, and Demolition Operations
Section 20.1.4.8.3	Exceeding the established occupancy limit-assembly occupancies
Section 20.12.2.4	Storage and Display of Consumer Fireworks
Chapter 41	Hot Work Operations
Section 50.5	Procedures for Use and Maintenance of Commercial Cooking Equipment
Section 65.11.1.5	Retail Sales of Consumer Fireworks limited to mercantile occupancies

CGS 29-291c(c)
FPC Citations, cont.

- Service of the citation
 - If practicable, delivery shall be made by the marshal to the accused owner or occupant at the time and place of the violation.
 - Otherwise, the marshal shall use some other reasonable means of notification.
 - Certified mail, return receipt requested

YOUR LETTERHEAD

SAMPLE

July 01, 2010

Mr. John Doe
123 Main Street
Your Town, CT 00000

Dear John Doe,

Pursuant to an inspection by the Your Town/City Fire Marshal's Office at 123 Main Street on 07-01-10, you have been cited for a violation of the Connecticut Fire Prevention Code, CGS 29-291c(c). Subsequently, Complaint Ticket # _____ has been issued and is enclosed. Action is required by you. Please acquaint yourself with the instructions on the reverse side of the Complaint Ticket and choose either #1 "I Elect to Pay the Amount Due" or #2 "I elect to Plead Not Guilty." It is imperative that you carefully complete and return the Complaint Ticket in the enclosed envelope by the date indicated on the front of the Complaint Ticket to avoid charges of Failure to Pay or Plead.

Should you have questions regarding this violation or Complaint Ticket please contact Fire Marshal _____ at phone number _____.

Respectfully,

Fire Marshal

CGS 29-291c(c)
FPC Citations, cont.

- Penalty
 - Any person who is issued a citation under this section shall be fined not more than two hundred fifty dollars (\$250.00).
 - Payable through the Centralized Infractions Bureau (CT CIB).
 - 90% of fines paid go back to the marshal's municipality's general fund (CGS 29-291c(d)).

Which choice is right?

- Discretion reasonably used always results in the right choice.
 - Ascertain the facts
 - Weigh out your options
 - Consider all remedies available
 - CGS 29-306
- Be consistent with enforcement

REVIEWING ABATEMENT OF AN OWNER :

POSSIBLE OWNERS OF PROPERTY:

- Persons – cite all of record.
 - DBAs (“doing business as”) – check Town Clerk
- Estates – check Probate Court
- Corporations – check CT Secty. of State
- Partnerships (General) – check CT Secty. of State
- Trusts

ADDRESSING THE ORDER

Mirror the deed...

- PERSONS: example - If deed states the grantees (owners) are John Owner and Lilly Owner, order should have both full names.

John Owner
Lilly Owner
123 Owner's Court
No Name, CT 06000*

*One order is generally sufficient for multiple owners only if owners live at same address. Check with your local prosecutor for housing matters.

ADDRESSING THE ORDER

Mirror the deed...

- ESTATES:
 - The deed may contain the name of a person who is deceased, or their estate.
 - Check with the Probate Court to determine the person responsible for the estate of the deceased owner. (i.e. Executor or an heir).
 - Get certified copy of appointment document.
 - Cite responsible person for the estate.

CORPORATE AND PARTNERSHIP OWNERS

- CORPORATIONS (Corp.s and Inc.s)
- LIMITED LIABILITY CORPORATIONS (LLCs)
- PARTNERSHIPS
- LIMITED LIABILITY PARTNERSHIPS (LLPs)
 - DOMESTIC (Registered in CT)
 - FOREIGN (Registered outside of CT)

ALL CORPORATIONS DOING BUSINESS IN CT
MUST BE REGISTERED WITH THE STATE OF
CT SECRETARY OF STATE.

ABATING CORPORATIONS CGS 53a-11

- **Sec. 53a-11. Criminal liability of an individual for conduct in name or behalf of corporation or limited liability company.** A person shall be criminally liable for conduct constituting an offense which such person performs or causes to be performed in the name of or in behalf of a corporation or limited liability company to the same extent as if such conduct were performed in such person's own name or behalf.

ADDRESSING THE ORDER

Mirror the deed...

- First obtain the owner name from the deed for the property.
- If a corporation, LLC or general partnership, check the exact name with the CT Secretary of State – CONCORD SEARCH

www.concord-sots/ct.gov

ADDRESSING THE ORDER

Mirror the deed...

- CORPORATE OWNER (Ex.)
 - Deed says XYZ, Inc. is the owner.
 - Enter XYZ, Inc. in CONCORD search.
 - Identify the principal of the corporation = the PRESIDENT of the corporation.
 - Obtain residence address for service.
 - Print copy of CONCORD page for your file.

ADDRESSING THE ORDER

Mirror the deed...

- LIMITED LIABILITY CORPORATIONS
 - Deed says XYZ, LLC.
 - Enter XYZ, LLC in CONCORD search.
 - Identify the principal of the LLC = the MEMBER or Managing Member of the LLC.
 - Obtain residence address for service.
 - Print copy of CONCORD page for your file.

Issuing Infractions

Judith P. Lee ESQ.
Ruth S. Craig
Judicial Branch
Superior Court operations

Fire Marshal's Training

For Issuing Infractions

Ticket Books

Ticket books can be ordered from:

Judicial Material Management
97 Hammer Mill Rd.
Rocky Hill, CT. 06067
860-257-0331

Using the form pictured



Ticket Books

Ticket Books

Upon receipt of ticket books, complete Receipt for Ticket Books and return to:

Centralized Infractions Bureau
PO Box 1140
Hartford, CT. 06143-1140
860-263-2750

Issuing Infraction Tickets

Use ticket separator in between each 3-ply set of tickets

Issuing Infraction Tickets

- Use ticket separator in between each 3-ply set of tickets
- Write LEGIBLY in all pertinent boxes on ticket

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- Use statute 29-291c (c) and cite specific regulation(s) violated.

Issuing Infraction Tickets

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- Answer date must be a Friday, ideally the 2nd Friday after the date of offense, even if a holiday.
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- The fine amount is set at \$250 by the Judges of the Superior Court

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- No more than 6 charges on each ticket

Issuing Infraction Tickets

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- The fine amount is set at \$250 by the Judges of the Superior Court
- No more than 6 charges on each ticket
- Give Defendant's Copy (3rd Ply) and envelope

Issuing Infraction Tickets

- Need Defendant's address
- Need Defendant's signature

Transmittal

DEPARTMENT OF TRANSPORTATION
TRANSMITTAL SHEET

DEFENDANT INFORMATION

NAME: [] ADDRESS: [] PHONE: []

NO.	DESCRIPTION	DATE	TIME	STATUS
1				
2				
3				
4				
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30				

Transmittal

- Prepare transmittal sheet, typed if possible, and include full name of defendant

Transmittal

- Prepare transmittal sheet, typed if possible, and include full name of defendant.
- Attach ticket(s) to transmittal with paper clip.
- NO STAPLES

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Send to CIB:
Centralized Infractions Bureau
PO BOX 1140
Hartford, CT. 06067

CIB Processing

CIB Processing

- Preparation:

CIB Processing

- Preparation:
 - Agency copy of transmittal returned to fire marshal office

CIB Processing

- Preparation:
 - Agency copy of transmittal returned to fire marshal office
- Scan

CIB Processing

- Preparation:
 - Agency copy of transmittal returned to fire marshal office
- Scan
- Data Entry

CIB Processing

- Preparation:
 - Agency copy of transmittal returned to fire marshal office
- Scan
- Data Entry
- Payment and Not Guilty Plea processing

CIB Processing

- Preparation:
 - Agency copy of transmittal returned to fire marshal office
- Scan
- Data Entry
- Payment and Not Guilty Plea processing
- Abstracts sent to fire marshal's office upon disposition

Documenting the Incident

Detective Paul Makuc
CSP-OSFM

Documenting the Incident

- Written Documentation
 - Field Notes
 - Photos
 - Detailed Report
 - **Officer's Report to Prosecuting Authority**

Documenting the Incident

- IMPORTANCE
 - Citation Documentation/Report may be the only source of information available concerning a CSFPC issue
 - Prosecutors will rely on the **Officer's Report to Prosecuting Authority** on the reverse side of the *white* COURT ORIGINAL Copy

Documenting the Incident

- Officer's Report to Prosecuting Authority
- Located on the reverse side of the *white* COURT ORIGINAL Copy
 - Separate the *white* COURT ORIGINAL Copy and *yellow* POLICE Copy
 - Place reverse side of *white* COURT ORIGINAL Copy face-up on top of reverse side of *yellow* POLICE Copy with carbon paper facing *yellow* POLICE COPY

P411462-1

COMPLAINT TICKET

OFFICER: [] DATE OF VIOLATION: []

LICENSE AND MOTOR VEHICLE: []

VIOLATION: []

OFFICER'S COMMENTS: []

REMARKS: []

CONNECTICUT SUPERIOR COURT

Documenting the Incident

- Officer's Report to Prosecuting Authority
 - Use the space provided to describe briefly the circumstances of the violation
 - Include all facts that will assist you in testifying to the **FACTS** of the violation
 - Print **NEATLY** and press down hard with Ball Point Pen

COMPLETE, ACCURATE, CONCISE

Documenting the Incident

- Basic details to include:
 - Who
 - What
 - When
 - Where
 - Why
 - How

Documenting the Incident

- Basic details to include:
 - Detailed information relating to the inspection
 - Identity & condition of any code violations
 - Attitude/Actions of accused
 - Identity & address of all witnesses

Documenting the Incident

- Additional Documentation Information
 - Information/documents gathered from your observations during inspections
 - Description of or photographs of building/property
 - History of previous code problems with building

Documenting the Incident

- Report Writing Principles to remember:
 - Write simply and clearly
 - Do not report unsupported allegations or suppositions
 - Since the report is the product of a professional, it should look professional
 - The report will be counted on to tell the complete story of the incident by those who refer to it later

Documenting the Incident

Upon Completion of Officer's Report to Prosecuting Authority:

- Transmit **white** COURT ORIGINAL copy to CIB
- Retain **yellow** POLICE COPY in office file with any other supporting documentation
 - Field Notes
 - Photos
 - Inspection Reports

NEW THREE-PART FORMAT

COMPLAINT TICKET

USE ONLY FOR INFRACTIONS AND VIOLATIONS WHICH ARE PAYABLE BY MAIL.
COMMITTED BY CONNECTICUT RESIDENTS AND OTHER APPLICABLE RESIDENTS OF A STATE WHICH HAS A RECIPROCAL AGREEMENT WITH CONNECTICUT.
(See back cover for listing)

INSTRUCTIONS TO OFFICERS
STRICTLY ENFORCE AND KNOWLEDGE
USE ONLY FOR FINE
USE ONLY FOR FINE
USE ONLY FOR FINE
USE ONLY FOR FINE

All of them be COURTEOUS, FAIR and HONEST

Remember that public control of law enforcement is judged almost entirely by your conduct.

1. Issuing a complaint.
 - 1. Complete yourself to the accused by writing "I am going to file a complaint with the police and the enforcement agency you represent."
2. Ask for the driver's license and registration certificate or other identification.
3. Advise the accused of the offense committed.
4. Advise the accused that you are going to issue a complaint for the offense(s).
5. Ask for any additional information necessary to fill out the complaint.

If you fill out the complaint, have the accused sign the original and give the accused the driver copy along with an original. If the accused refuses to sign the original, print "REFUSED" on the original file.

DO NOT - Leave the accused.
DO NOT - Sign the complaint on knowledge of the law.
DO NOT - Assume to personal remarks or alterations.
Whichever manner used for the second copy, after the issue of the original, must be such Priority is a habit.

Going to Court?

- Remember it is possible a citation can end up contested in court if the accused pleads not guilty.
- Prepare your report and file in each case on this assumption.
- Communicate and cooperate with the prosecuting attorney.

Non-Disclosure of Records- Investigation and Enforcement

- Freedom of Information Act (CGS Ch. 14)
 - Exemption from disclosure of records of law enforcement involved in detection or investigation of a crime if prejudicial to a prospective law enforcement action.
CGS 1-210(b).
 - Non-disclosure of communications with State's Attorney and Municipal Attorney

Non-Disclosure of Records- Dismissed and Nolled Cases

- Any case which was dismissed at court and was not appealed within 20 days of the dismissal shall not be disclosed to any person.
- Any case which was nolled by a prosecutor at court becomes a dismissal after 13 months and shall not thereafter be disclosed to any person.

**Non-Disclosure of Records
CGS 54-142a(b)**

- Statutory treatment of dismissed cases states all police, court and prosecutor records pertaining to such charge:
 - “shall be erased by operation of law and the clerk or any person charged with the retention and control of such records shall not disclose to anyone their existence or any information pertaining to any charge so erased”.
