

**ORDINANCE NO. 2010-01**

**AN ORDINANCE OF THE AVILA BEACH COMMUNITY SERVICE DISTRICT  
AMENDING AND RESTATING THE DISTRICT'S FIRE CODE FOUND IN TITLE 15  
OF THE AVILA BEACH COMMUNITY SERVICE DISTRICT CODES, INCLUDING  
THE ADOPTION OF THE 2010 EDITION OF THE CALIFORNIA FIRE CODE,  
INCLUDING ANNUAL SUPPLEMENTS AND STATE AMENDMENTS AND ERRATA.**

**WHEREAS**, it is the desire and intent of the Avila Beach Community Services District ("District") to provide citizens with the greatest degree of protection from fire; and

**WHEREAS**, the California Building Standards Code, Title 24, which includes the California Fire Code, which is based on the 2009 International Fire Code, is adopted every three years by order of the California Legislature with supplements published in intervening years; and

**WHEREAS**, The District contracts with the California Department of Forestry and the Fire Protection for fire protection and enforcement of the District's Fire Code; and

**WHEREAS**, the Avila Beach Community Services District proposes to make certain changes in the requirements of the 2010 California Fire Code which are more restrictive than State law and will affect all occupancies within the District; and,

**WHEREAS**, California Health and Safety Code Section 17958.5 requires the District to make express findings that due to local climatic, geological, or topographical conditions that modifications and changes to the current California Building Code are reasonably necessary to provide sufficient and effective protection of life, health, and property before adopting such changes, and Section 17958.7 requires that such findings be filed with the California Building Standards Commission.

**WHEREAS**, the latest edition of the California Building Standards Code was published and adopted this year and has the force of law beginning January 1, 2011 and any local additions, amendments and deletions must then be incorporated; and

**WHEREAS**, this ordinance will adopt and amend the 2010 California Fire Code including annual supplements and State amendments and errata; and

**NOW THEREFORE**, the Board of Directors of the Avila Beach Community Services District ordains as follows:

**SECTION 1**

- A. **General.** Pursuant to Health and Safety Code §17958.5, the Avila Beach Community Services District hereby finds that due to local climatic, geologic and topographic conditions as stated in this section, that modifications and amendments, as identified in this Ordinance to the current California Building

Standards Code (including the California Fire Code) are reasonably necessary to provide sufficient and effective protection of life, health and property.

- B. **Climatic.** The Avila Beach Community Services District experiences periods of high fire danger due to weather conditions. These conditions create an environment in which the Fire Department can be committed to the control and extinguishment of wildland interface fires. During such periods, the limited available firefighting resources may have great difficulty in controlling fires in structures not having built-in fire protection. Further, floods are another hazard to which the Avila Beach Community Services District is subject. A flood or tidal inundation in the District of Avila would reduce the movement of fire apparatus. Two large fires at the same time during these climatic conditions would be disastrous. Automatic fire sprinklers may be the only fire control inside buildings within the flood area. Any delay in structural firefighting could allow a fire to quickly involve a number of buildings. Additional fire apparatus and equipment from other communities responding on a mutual aid request may not be able to reach some fire areas. Some weather conditions also create an environment in which the Fire Department has a reduction in visibility. During such periods this reduction in visibility is caused by Coastal Fog or dust which can cause a delay in locating an incident.
- C. **Geological.** The Avila Beach Community Services District is in a potential high activity seismic zone. After a large seismic event, the potential for multiple fires occurring simultaneously will tax available firefighting resources. Near shore and long distance Tsunami's can flood and damage sections of the coast. During flooding events it is well documented that building and other fires can occur. Built-in fire protection will assist in extinguishing or controlling fires in larger structures which will increase the availability of firefighting resources after seismic activity.
- D. **Topographical.** The Avila Beach Community Services District is an isolated community that is surrounded by steep coastal hills on one side and the Pacific Ocean on the other. Emergency responses in the District require a longer response time as responders traverse the limited access roads created by this topography. These delays will allow fires to grow beyond the control of initial attack fire suppression efforts. In addition, wildland interface fires in the hills around the District are more difficult to fight and expose multiple structures to a fire at one time, quickly overwhelming emergency responders. Therefore, built-in fire protection is necessary.

**SECTION 2 Chapter 15.08 of the District's Fire Code is Amended and Restated as follows:**

Chapter 15.08  
Fire Control Regulations

Sections:

15.08.010	Scope
15.08.020	Nationally recognized standards
15.08.030	Adoption of the California Fire Code
15.08.050	Definitions
15.08.060	Authority to Inspect
15.08.070	Amendments made in the California Fire Code
15.08.080	Fire Hazards/Weed and Waste Matter Abatement

**Title 15 HEALTH AND SAFETY**

**Chapter 15.08 FIRE CONTROL REGULATIONS**

**15.08.010 Scope.**

An Ordinance of the Avila Beach Community Services District amending and restating the District's Fire Code including adopting the 2010 edition of the California Fire Code with amendments, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the Avila Beach Community Services District ("District") providing for the issuance of permits and collection of fees.

**15.08.020 Nationally recognized standards.**

Where no applicable standards or requirements are set out in this code, or contained within other laws, codes, regulations, ordinances or bylaws adopted by the District, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire-safety standards as approved by the fire chief shall be deemed prima facie evidence of compliance with the intent of this code.

**15.08.030 Adoption of the 2010 California Fire Code by Reference.**

Except as amended by Sections 15.08.050 through 15.08.080 (below) the Avila Beach Community Services District adopts by reference the 2010 Fire Code with the exception of Appendix A, D, E, G and J in its entirety. Title 15 of the Avila Beach Community Service District Regulations is hereby amended and restated accordingly. All annual supplements and State Amendments and Errata to the 2010 California Fire Code, that are not inconsistent with this Ordinance, are incorporated herein by reference.

**15.08.050 Definitions**

- A. District Fire Chief, Fire Chief or Chief Fire Official means the California Department of Forestry and Fire Protection/San Luis Obispo County Fire Chief.
- B. The District Fire Department means the California Department of Forestry and Fire Protection and employees, apparatus, materials and equipment assigned to it by the District and the California Department of Forestry and Fire Protection pursuant to contract.
- C. Property Owner means the owner of property whose name and address appears on the latest equalized County assessment roll.
- D. Governing Body or Appointing Authority means the District Board of Directors.
- E. Jurisdiction means the boundary of the Avila Beach Community Services District.

**15.08.060 Authority to Inspect**

Employees of the District Fire Department are authorized to enter upon any property or premises to ascertain whether the provisions of the Fire Code are being violated, and to make any examinations, inspections and surveys as may be necessary in the performance of their enforcement duties. Examinations may include the taking of photographs, samples or other physical evidence. All inspections, entries, examinations and surveys shall be done in a reasonable manner. If an owner, occupant or agent refuses permission to enter or inspect, the Fire Code Official may seek an administrative inspection warrant pursuant to the procedures provided for in California Code of Civil Procedure Section 1822.50 through 1822.59.

**15.08.070 Amendments made in the California Fire Code.**

The California Fire Code, 2010 Edition, is amended, changed and incorporated into the District's Fire Code as follows:

1. Amend Chapter 1 Section 103 Department of Fire Prevention to read as follows:

**101.1 Title.** These regulations, including Sections 15.08.010 through 15.08.070, shall be known as the *Fire Code* of the Avila Beach Community Services District, and may be cited at Avila Beach Community Services District Fire Code, ABCSD Fire Code, or the District Fire Code, hereinafter referred to as "this code" or the District's Fire Code.

**103.3.1 Fire prevention bureau personnel, police officer authority and enforcement.**

- A. The California Department of Forestry and Fire Protection/San Luis Obispo County Fire Chief is:
  - 1 The Chief Fire Official and is charged with the enforcement and administration of the District Fire Code.
  - 2 The Board of Directors' authorized representative to appoint Fire Code Official(s).
  - 3 The Board of Directors' authorized representative to appoint member of the California Department of Forestry and Fire Protection with the authority of peace officers or public officers pursuant to California Penal Code sections 830.2(g), 830.7(d) and 836.5(a) in performing their duties under the California Fire Code.
- B. The Fire Chief is authorized to make necessary and reasonable policies and procedures that are consistent with the provisions of this Fire Code to aid in its implementation.

- 2. Amend Chapter 1 Section 105 Permits read as follows:

**105.3.3 Occupancy and use prohibited before approval.** The building or structure shall not be occupied prior to the fire code official issuing a permit that indicates that applicable provisions of this code have been met. No appliance, device, equipment, or system shall be operated or used until the installation has been approved and permitted by the fire code official and all applicable provisions of this code have been met. It shall be the duty of the permit applicant or contractor or both to cause the work to remain accessible and exposed for inspection purposes.

- 3. Amend Chapter 1 Section 108 Board of Appeals to read as follows:

**108.1 Board of Appeals Established.** In order to hear and decide appeals of orders, decisions or determination made by the Fire Code Official relative to the application and interpretation of this Fire Code, there shall be and is hereby created a Board of Appeals. Until such time as the District Board of Directors appoints members to the Board of Appeals, the Board of Appeals shall be the Board of Appeals appointed by the County of San Luis Obispo. The rules of procedure for conducting the business of the Board of Appeals shall be those procedures established by the County of San Luis Obispo. The District Manager shall provide staff services for the Board of Appeals. The Board of Appeals shall render all decisions and findings in writing to the appellant with a duplicate copy to the Fire Code Official. The fee for appeals shall be consistent with the fees established by the District Board of Directors.

4. Amend Chapter 1 Section 109 Violations to read as follows:

**109.3 Violations.**

- A. Unlawful acts. It shall be unlawful for a person, firm or corporation to
1. Erect, construct, alter, repair, remove, demolish or utilize a building, occupancy, premises or system regulated by this Fire Code, or cause same to be done, in conflict with or in violation of any of the provisions of this Fire Code.
  2. To violate any provision or to fail to comply with any of the requirements of this Fire Code.
  3. To cause, aid, abet, or conceal the fact of a violation of this Fire Code.
- B. Notice of violation. When the Fire Code Official finds a violation referenced in Paragraphs A (1), (2), or (3), above, the Fire Code Official is authorized to prepare a written notice of violation describing the violation and, when compliance is not immediate, specifying a time for re-inspection.
1. Service. A notice of violation issued pursuant to this Fire Code shall be served upon the Property Owner, operator, occupant or the person responsible for the condition or violation, either by personal service, mail or delivering the same to, and leaving it with, some person of responsibility upon the premises. For unattended or abandoned locations, a copy the such notice of violation shall be posted on the premises in a conspicuous place at or near the entrance to such premises and the notice shall be mailed by certified mail with return receipt requested or a certificate of mailing, to the last known address of the Property Owner, occupant or both.
  2. Compliance with orders and notices. A notice of violation issued or served as provided by this Fire Code shall be complied with by the Property Owner, operator, occupant or other person responsible for the condition or violation to which the notice of violation pertains.
  3. Prosecution of violation. If the notice of violation is not complied with promptly, the Fire Code Official is authorized to request District Legal Counsel to institute the appropriate legal proceedings at law or in equity to restrain, correct, or abate such violation or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Fire Code or of the order or direction made pursuant hereto.

4. Unauthorized tampering. Signs, tags or seals posted or affixed by the Fire Code Official shall not be mutilated, destroyed or tampered with or removed without authorization from the Fire Code Official.
- C. Violation penalties. Persons (as defined in Chapter 2) who shall violate a provision of this Fire Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a permit or certificate used under provisions of this Fire Code, shall be guilty of a misdemeanor except for those specifically declared by the Fire Code to be an infraction. Notwithstanding any other provision of the Fire Code, any misdemeanor violation or failure to comply may, in the discretion of the District Legal Counsel or the Fire Code Official, be initially charged or subsequently prosecuted as an infraction. Each and every infraction violation is punishable by a fine not exceeding one hundred (\$100) dollars for a first violation; a fine not exceeding two hundred (\$200) dollars for a second violation of the Fire Code within one (1) year; and a fine not exceeding five hundred (\$500) dollars for a third violation of the Fire Code within one (1) year. Each and every misdemeanor violation is punishable by a fine not exceeding one thousand (\$1,000) dollars, or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment.
1. Abatement of violation. In addition to the imposition of the penalties herein described, the Fire Code Official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.
  2. Continuing violations. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue.
- D. Separate offense. For each and every day, unless stated elsewhere, during any portion of which any violation of any provisions of this Fire Code is committed, continued, or permitted by such person (including firms or corporations) shall be a separate offense and punishable accordingly.
- E. Public Nuisance. Enforcement by Civil Action. In addition to the penalties provided in the Fire Code, any condition caused or permitted to exist in violation of any of the provisions of the Fire Code shall be deemed a public nuisance and may be abated as such, and every day such condition continues shall be regarded as a new and separate offense.
- F. Injunctive Relief. The Fire Code may also be enforced by injunction issued by the Superior Court upon the suit of the District. This method of

enforcement shall be cumulative and in no way affect the penal provisions hereof.

- G. Fees, Charges, Fines and Penalties. The amount of any fee, service charge, fine or penalty of any nature whatsoever imposed by any provision of this Fire Code shall be deemed a civil debt owing to the District, County or Court. An action may be commenced in the name of the District in any court of competent jurisdiction for the collection of the amount of any such delinquent or unpaid fee, service charge, fine or penalty together with any penalties applicable thereto as prescribed by this Fire Code.
- H. Collection of Fees, Charges, Fines and Penalties with Taxes. The Board of Directors hereby adopts the procedures for the collection of delinquent rates, charges, fines, penalties and fees established in Government Code Sections 61115(c) and (d) or any successor statutes. The General Manager or his/her designee is authorized to record a certificate specifying the amount of any such charges, fines, and fees and the name and address of the persons liable therefore, sixty (60) days after the payment becomes delinquent, pursuant to Government Code Section 61115(c).
- I. Remedies Cumulative. Enforcement of the provisions of this Fire Code and remedies for collection of various fees, charges, fines and penalties are cumulative and may be pursued alternatively or consecutively by the District. The District's use of any one of the remedies, legal actions or enforcement actions prescribed herein shall not bar the use of any other remedy, legal action or enforcement procedures provided by the Fire Code or by law for the purpose of enforcing the provisions hereof.

5. Amend Chapter 1 Section 111 Stop Work Order to read as follows:

**111.4 Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to the criminal sanctions set forth in Health and Safety Code Section 13871.s.

6. Amend Section 202 General Definitions to read as follows:

**A. Alteration.** Any change or renovation to an existing structure other than a repair or addition. Alterations include but are not limited to the addition or elimination of walls within the existing building envelope. Alteration also includes modifications to the structure which involve complete removal and replacement of wall board within any room.



**F. Floor Area Gross.** For the purpose of calculating square footage for the application of fire sprinkler requirements and fire flow requirements, the floor area shall include all combustible areas attached to the structure, including garages, patio covers, overhangs, covered walkways and etc.

7. Amend Section 405 Emergency Evacuation Drills to read as follows:

**405.7 Initiation.** Where a fire alarm system is provided, emergency evacuation drills shall be initiated by activating the fire alarm system. Prior to initiating an alarm, the person initiating the alarm shall contact the fire alarm monitoring company and advise the company's dispatcher of the fire drill. In cases where the fire alarm system is not monitored by a central station, notification shall be provided to the fire department dispatch center.

8. Amend Section 503 Fire Apparatus Access Roads to read as follows:

**503.1.2.1 Maximum Dead-end Road Lengths.** The maximum length of dead-end road, including all dead-end roads accessed from that dead-end road, shall not exceed 500 feet.

**503.2.3 Surface.** Fire apparatus access roads shall be designed and maintained to support the imposed loads, no less than 40,000 lbs. of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities.

**503.2.5.1 Cul-de-sac** (temporary or permanent). The minimum outside turning radius shall be 40 feet unobstructed. The inside radius shall be 20 feet. When parking is permitted within the cul-de-sac, the minimum outside radius from center to curb shall be 48 feet or as approved by the fire code official.

**503.2.6 Bridges.** When a bridge or elevated surface is required to be used as access under this section, it shall be constructed and maintained in accordance with AASHTO HB-17, and shall use designed live loading sufficient to carry the imposed loads of a 40,000 lb. fire apparatus. Vehicle load limits shall be posted at both entrances to bridges when required by the Fire Chief. Where elevated surfaces designed for emergency vehicle use are adjacent to surfaces which are not designed for such use, approved barriers, signs or both shall be installed and maintained when required by the fire code official.

**503.2.7 Grade.** The gradient for a fire apparatus access road shall not exceed 16% without approval by the Fire Chief.

**503.2.9 Driveway.** A driveway is permitted when it serves no more than two structures, with no more than 3 dwelling units a lot of record and any number of accessory structures.

**503.2.9.1 Driveway.** Width for high and very high fire severity zones:

Driveway Length	Required width
0-49 feet	10 feet is required
50-199 feet	12 feet is required
Greater than 200 feet	16 feet is required

**503.2.9.2 Turnarounds.** Turnarounds must be provided if driveway exceeds 300 feet, and shall be within 50 feet of the building.

**503.2.9.3 Driveway grade.** The minimum level of improvement shall be determined by the grade of driveway providing access from the road to the building site or parking area as follows:

Surface	Maximum Grade
All-weather <sup>1</sup>	Less than 12%
Nonskid <sup>2</sup>	12% to 16%
Nonskid <sup>2</sup>	Over 16%

Notes:

- (1) An all-weather surface road shall be maintained as specified in San Luis Obispo County Standard Specifications A-1j.
  - (2) Surface shall be asphalt or concrete as specified in San Luis Obispo County Standard Specifications and Improvement Drawings, including a nonskid finish.
1. Fuel Breaks - The Chief or his/her designee is authorized to cause an area within 10 feet on each side of the driveway to be cleared of flammable vegetation and other combustible growth. The Chief or his/her designee is authorized to enter upon private property to do so.

**Exception:**

Single specimens of trees, ornamental shrubbery, or cumulative groundcover such as green grass, ivy, succulents or similar plants used as groundcover provided they do not form a means of readily transmitting fire.

2. A turnout shall be provided near the midpoint.
  3. For driveways exceeding 300 feet, a turn-around shall be at the building site and must be within 50 feet of the dwelling. For driveways exceeding 800 feet, turnouts shall be provided no more than 400 feet apart.
9. Amend Section 505 Premises Identification to read as follows:

**505.1 Address Identification.** New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. Address numbers shall be provided at additional locations on the building and at locations adjacent to roads or driveways leading to buildings when required by the fire code official. These numbers shall contrast with their background. The height and minimum stroke of numbers or letters shall be approved by the fire code official.

**505.1.1 Directories.** When required by the fire code official, complexes with multiple buildings may be required to provide directories, premises maps and directional signs. The scale, design and location of directory signs shall be approved by the fire code official and may be required to be illuminated.

10. Amend Section 603 Fuel-Fired Appliances to read as follows:

**603.1.4 Fuel Oil.** The grade of fuel oil used in a burner shall be that for which the burner is approved and as stipulated by the burner manufacturer. Oil containing gasoline shall not be used.

**603.9 Gas meters.** Above-ground gas meters, regulators and piping subject to damage shall be protected by a barrier complying with Section 312 or otherwise protected in an approved manner. Gas meters shall be permanently marked and identified as to the building or system served.

11. Amend Section 901 Fire Protection Systems, General - to read as follows:

**901.4.2 Non-required fire protection systems.** Any fire protection system or portion thereof not required by this code or the California Building Code may be allowed, when approved by the fire code official, to be furnished for partial or complete protection provided such installed system meets the requirements of this code and the California Building Code.

**Exception:**

1. An automatic fire sprinkler system shall not be permitted unless a complete system.

12. Amend Section 903 Automatic Sprinkler System - to read as follows:

**903.2 Where required.** An approved automatic fire sprinkler system shall be installed:

1. Throughout new buildings.

**Exceptions:**

1. A single-story building where floor area does not exceed 1000 square feet (92.9 m<sup>2</sup>) and the occupancy is not a Group R, Group H or Group I occupancy.
  2. A building that contains only a Group A, Division 5 occupancy.
2. Throughout existing and new sections of an existing building where floor area is increased by 1000 square feet or where alterations exceed fifty (50) percent of the floor area. Increase in floor area shall be cumulative from January 1, 2008, with each issuance of a building permit, regardless of any change of ownership.

**Exception:** Alterations limited to replacement of exterior coverings, windows, roofing, electrical services, sewer laterals, retaining walls, and routine plumbing, electrical and mechanical repairs.

3. Throughout existing and new sections of an existing building where an additional story is added.

**Exception:** A building that contains a Group R, Division 3 occupancy unless the resulting building will exceed two stories or where floor area is increased by 1000 square feet or where alterations exceed fifty (50) percent of the floor area. Increase in floor area shall be cumulative from January 1, 2008, with each issuance of a building permit, regardless of any change of ownership.

4. In additions to existing buildings equipped with an automatic fire sprinkler system.
5. Throughout existing and new sections of an existing building where there is an occupancy classification change which results in a higher hazard or as deemed necessary by the fire code official.

For the purpose of requiring the automatic fire sprinkler systems specified in this chapter, the floor area within the surrounding exterior walls shall be considered as one building.

**903.2.4.3 Pyroxylin Plastics.** An automatic sprinkler system shall be provided in buildings, or portions thereof, where cellulose nitrate film or pyroxylin plastics are manufactured, stored.

**903.3.1.1.2 Exterior locations.** Automatic fire sprinklers installed at exterior locations shall be approved corrosion-resistant devices when environmental conditions warrant.

Subsections 903.2.2, 903.2.3.1, 903.2.5, 903.2.6, 903.2.7.1, 903.2.8 and 903.2.11.2 through 903.2.18 are adopted without amendment.

13. Amend Section 905 Standpipe Systems to read as follows:

**905.3.1 Building Height.** Class III standpipe systems shall be installed throughout buildings where the floor level of the highest story is located more than 30 feet (9144 mm) above the lowest level of the fire department vehicle access, or where the floor level of the lowest story is located more than 30 feet (9144 mm) below the highest level of fire department vehicle access and in any parking structure above or below grade.

14. Amend Section 907 Fire Alarm and Detection System to read as follows:

**907.7.5 Monitoring.** Fire alarm systems required by this chapter or by the California Building Code shall be monitored by an approved central station service listed by Underwriters Laboratory for receiving fire alarms in accordance with NFPA 72. The central station shall contact and notify the fire dispatch center immediately on notification of an alarm and prior to making contact with the protected premises.

15. Amend Section 2206 Flammable and Combustible Liquid Motor Fuel-Dispensing Facility to read as follows:

**2206.2 Method of storage.** Approved methods of storage for Class I, II, and III liquid fuels at motor fuel-dispensing facilities shall be in accordance with Sections 2206.2.1 through 2206.2.5.

**2206.2.3 Above-ground tanks located outside, above grade.** Above-ground tanks shall not be used for the storage and dispensing of Class I, II, or III liquid motor fuels except when approved by the chief and in accordance with this Section, Section 3404.2.7 and Sections 3404.2.9.6 through Section 3404.2.9.6.3 and shall not be offered for resale.

3. Tanks containing fuels shall not exceed 8,000 gallon (30 274 L) in individual capacity or 16,000 gallons (60 549 L) in aggregate capacity. Installations with the maximum allowable aggregate capacity shall be separated from other such installations by not less than 100 feet (30 480 mm).

16. Amend Section 3204.3 to read as follows:

**3204.3 Outdoor storage.** Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited, except when approved by the fire code official. Where outdoor storage of cryogenic fluids is allowed, containers of cryogenic fluids shall not be located within diked areas containing other hazardous materials and shall be in accordance with Sections 3204.3.1 through 3204.3.1.2.3.

17. Amend Section 3309 Reserved to read as follows:

**3309.1 Fireworks prohibited.** The manufacturing, possession, storage sale, use and handling of fireworks, including without limitation, "Safe and Sane" fireworks, is prohibited.

**Exceptions:**

1. Use and handling of fireworks for professional display in accordance with Title 19, California Code of Regulations, Chapter 6 and a District Board resolution approving the public display.

**3309.2 Seizure of Fireworks.** The fire code official shall have the authority to seize, take and remove fireworks stored, sold, offered for sale, used or handled in violation of the provisions of Title 19, California Code of Regulations, Chapter 6 and California Health and Safety Code, Chapter 9.

18. Amend Section 3404 Location of Containers to read as follows:

**3404.2.9.6 Above-ground tanks outside of buildings.** Protected above-ground tanks outside of buildings shall comply with Sections 3404.2.9.6.1 through 3404.2.9.6.3 and Section 2206.2.3.

**3404.2.9.6.1 Locations where above-ground tanks are prohibited.** Storage of Class I, Class II, and Class III liquids in unprotected above-ground tanks outside of buildings is prohibited. Tanks containing fuels shall not exceed 8,000 gallon (30 274 L) in individual capacity or 16,000 gallons (60 549 L) in aggregate capacity. Installations with the maximum allowable aggregate capacity shall be separated from other such installations by not less than 100 feet (30 480 mm).

19. Amend Section 3406 Special Operations to read as follows:

**3406.2.4.4 Location where above-ground tanks are prohibited.** Storage of Class I liquids in above ground tanks outside of buildings is prohibited. Class II and III liquids may be stored in approved above ground containers for the purpose of dispensing only at facilities where no sales to the public occur and comply with Section 3406.1. Above ground tanks containing Class II and Class III liquids shall not exceed 2,000 gallons. Plans for the installation of above ground tanks shall be submitted to the Fire Department for approval and in conformance

with applicable codes and standards. When required, a Conditional Use Permit shall be secured.

20. Amend Section 3804.2 Location of Containers to read as follows:

**3804.2 Maximum capacity within established limits.** The installation of any liquid petroleum gas tank over 500 gallons (1 892 L) water capacity is prohibited unless approved by the fire chief.

21. Amend Section 4902 Definitions to read as follows:

**Wildland-Urban Interface Fire Area** is a geographical area identified by the state as a "Fire Hazard Severity Zone" in accordance with Public Resources Code Sections 4201 through 4204 and Government Code Section 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires. Areas within or in proximity to areas identified by the State as a "Fire Hazard Severity Zone" that pose a significant risk from wildfires will be considered by the Avila Beach Community Services District as a Wildland-Urban Interface Fire Area.

Section 15.08.80 is added to the Avila Beach Community Services District Fire Code as follows:

**15.08.080 Fire Hazards/Weed and Waste Matter Abatement.**

- A. Introduction

Property Owners and affected properties are exempt where enforcement of this Chapter would result in the taking of endangered, rare, or threatened plant or animal species or will result in significant erosion and sedimentation of surface waters.

- B. Weeds Constituting Fire Hazards.

1. All weeds which are described in paragraph B below, growing upon any property or in any public street, sidewalk, or alley which when exposed to the elements, endanger the public safety by creating a fire hazard, and/or impedes access to fire protection systems or facilities are declared by the District Board of Directors to be a public nuisance.
2. The term "weeds" includes:
  - a. Weeds which bear seeds of a downy or wingy nature; Sagebrush, chaparral, and any other brush or weeds which attain such large growth as to become, when dry, a fire menace to adjacent improved property;
  - b. Weeds which are otherwise noxious or dangerous;

- c. Poison oak and poison ivy, when the conditions or growth are such as to constitute a menace to the public health;
- d. Dry grasses, stubble, brush, dead shrubs, dead trees, litter or other flammable material which endanger the public safety by creating a fire hazard.

C. Waste Matter Constituting a Fire Hazard.

Rubbish, litter and other flammable materials (collectively waste matter) which when exposed to the elements or which by reason of its location would hamper or interfere with the suppression or prevention of fire upon the premises, and/or endangers the public safety by creating a fire hazard, are declared by District Board of Directors to be a public nuisance.

D. Authority of Fire Code Official.

The Fire Code Official is authorized to determine the existence of a public nuisance and to abate the public nuisance pursuant to paragraphs E and F, below.

E. Summary Abatement of Fire Hazards.

1. Pursuant to Government Code Section 61100(t) the provisions of Part 5 (commencing with Section 14875) Division 12 of the Health and Safety Code are incorporated herein by reference.
2. In the application of the provisions of Part 5 (commencing with Section 14875) Division 12 of the Health and Safety Code, to proceedings under this Section, the terms "Board of Directors" shall be deemed to be a "Board of Supervisors" and the District Fire Code Official or his/her designees shall be deemed to be the "persons" designated in Section 14890 of the Health and Safety Code.

F. Violations.

The Fire Code Official is authorized to use provisions of Section 109.3 of this Fire Code, as amended to abate public nuisance.



### **SECTION 3. Incorporation of Recitals.**

The Recitals to this Ordinance are true and correct and are incorporated herein by this reference.

### **SECTION 4. Severability.**

If any section, subsection, sentence, clause or phrase of this Ordinance and/or the Code Sections adopted by this Ordinance are for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the District hereby declares that it would have passed this Ordinance and the Code Sections adopted by this Ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

### **SECTION 5. Effect of Headings in Ordinance.**

Title, division, part, chapter, article, and section headings contained herein or in the various Codes adopted hereby do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance or the related Code Sections.

### **SECTION 6. CEQA**

The District Board of Directors has considered the Amendment and Restatement of the District's Fire Code. The Board of Directors has, as a result of its consideration, the evidence presented at the hearings on said matter, and all comments that were received during the public hearing process, finds that the amendment and restatement of the District's Fire Code does not constitute a "project" under the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 et seq.) or its implementing Guidelines (14 California Code of Regulations Section 15000 et seq.) ("CEQA Guidelines"). The Board of Directors finds that the adoption of this amendment and restatement of the District Fire Code, including amendments to the California Fire Code constitutes "general policy and procedure making" described in Section 15378(b)(2) of the CEQA Guidelines which are deemed not to be "projects". Even if the adoption of this amendment and restatement of the District Fire Code, including the amendments to the California Fire Code is a "project" for purposes of CEQA, the District Board finds that it is exempt from review pursuant to Section 15061(b)(3) which provides that an activity is not subject to CEQA review where it can be seen with certainty that there is no possibility that it may have a "significant effect on the environment." The District Board finds that it can be seen with certainty that there is no possibility that the adoption of the amendment and restatement of the District Fire Code, including the amendments to the California Fire Code may have a significant effect on the environment. The District General Manager is authorized to prepare, execute and file a notice of exemption pursuant to the above provisions.

**SECTION 7. Inconsistency.**

To the extent that the terms of provision of this Ordinance or the Code amendments adopted hereby, are inconsistent or conflict with the terms or conditions of any prior District Ordinance(s), Motions, Resolutions, Rules, or Regulations, governing the same subject matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, Motions, Resolutions, Rules, and Regulations are hereby repealed.

**SECTION 8.**

Nothing within this Ordinance or the amendment and restatement of the District Fire Code shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 7 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

**SECTION 9. Publication.**

The summary publication procedures authorized by Section 25124(b)(1) of the Government Code are hereby approved. The summary shall be prepared by the District Fire Chief or his/her designee.

**SECTION 10. Effective Date.**

This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of the fifteenth (15<sup>th</sup>) day after passage it shall be published once with the names of the members of the Board of Directors voting for or against the Ordinance in a newspaper of general circulation within the District.

Introduced at a regular meeting of the Board of Directors held on November 9, 2010, and passed and adopted by the District Board of Directors on the 9th day of December, 2010, by the following roll call vote to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Pete Kelley, President of the Board of Directors  
Avila Beach Community Services District

ATTEST:

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District General Manager and Secretary

APPROVED AS TO FORM:

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District Legal Counsel