

**ORDINANCE NO. 2010-xxx**

**AN ORDINANCE OF THE LOS OSOS COMMUNITY SERVICE DISTRICT  
AMENDING AND RESTATING THE DISTRICT'S FIRE PREVENTION CODE  
FOUND IN TITLE 4 OF THE LOS OSOS 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 Los Osos Community Services District ("District") to provide citizens with the greatest degree of protection from fire; and

**WHEREAS**, Chapter 4.02 of Title 4 of the District Code incorporates the California Fire Code (previously Uniform Fire Code) into the District's Fire Code Prevention Code; and

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

**WHEREAS**, The District proposes to make certain changes in the requirements of the 2010 California Fire Code which are more restrictive and will affect all occupancies and be more restrictive than State Law; 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; and

**WHEREAS**, pursuant to Health and Safety Code Section 17958.5 and based on the staff report, staff presentation and public comment the District Board of Directors (or "District Board") makes the following findings:

- A. **General.** After due consideration the Board of Directors of the Los Osos Community Services District hereby finds that due to local climatic, geologic and topographic conditions as stated in this section, that modifications and changes to the current 2010 California Fire Code are reasonably necessary to provide sufficient and effective protection of life, health and property.

- B. **Climatic.** Los Osos Community Services District experiences periods of high temperatures, accompanied by low humidity and high winds each year. These conditions create an environment in which the Fire Department commits large numbers of fire fighting resources to the control and extinguishment of wildland fires. During such periods, the limited available firefighting resources may have great difficulty in controlling fires in structures not having built-in fire protection. Other 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.** Los Osos Community Services District is in a potentially 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.** Los Osos Community Services District has rural areas that are in very high fire hazard areas. Due to topography, access to structures in rural areas increases response time and delays fire suppression efforts. An extended response time will allow fires to grow beyond the control of initial attack fire suppression resources. Large structure fires in the hillside areas will have a greater likelihood of starting a wildland fire which may expose additional structures to fire. Therefore, built-in fire protection is required in all structures.

**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 amends and restates Title 4 of the District Code including the adoption and amendments to the 2010 California Fire Code including annual supplements and State amendments and errata.

**NOW THEREFORE**, the Board of Directors of the Los Osos Community Services District ordains as follows:

**SECTION 1** Chapter 4.01 of the District Fire Prevention Code is Amended and Restated as follows:

## Chapter 4.01.100 GENERAL

### 4.01.10 Title and Manner of Citation

Title 4 of the Los Osos Community Services District ("District") Code may be cited as the Los Osos Community Services District Fire Prevention Code, The LOCSD Fire Prevention Code, and/or the District Fire Prevention Code.

### 4.01.20 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 Prevention Code.
  - 2 The Board of Directors' authorized representative to appoint the District's Code Enforcement Officer(s), Fire Code Official(s) and Hearing Officer(s).
- B. The Fire Chief is authorized to make necessary and reasonable policies and procedures that are consistent with the provisions of this Fire Prevention Code to aid in its implementation.

### 4.01.30 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. Employees of the District Fire Department or Fire Department employees means the employees assigned to it by the District and employees assigned by the California Department of Forestry and Fire Protection pursuant to contract.
- D. Code Enforcement Officer or Fire Code Official means the District Fire Chief and/or his/her designee. Code Enforcement Officer has the same meaning as Fire Code Official.

E. Property Owner means the owner of property whose name and address appears on the latest equalized County assessment roll.

F. Governing Body means the District Board of Directors.

#### 4.01.40 Peace Officer Powers

Employees of the District Fire Department shall have the powers of peace officers while engaged in the prevention and suppression of fires and the protection and preservation of life and property, including, but not limited to, actions associated with rescue services, emergency medical services and hazardous material emergency response services.

#### 4.01.50 Citations

The Fire Chief or his or her duly authorized representative is authorized to issue citations for misdemeanors specified in Health and Safety Code Section 13871. The provisions of Chapter 5(c) of the Penal Code, as amended from time to time, shall apply.

#### 4.01.60 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 Prevention Code are being obeyed, and to make any examinations and surveys as may be necessary in the performance of their enforcement duties. These 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 Code Enforcement Officer may seek an administrative inspection warrant pursuant to the procedures provided for in California Code of Civil Procedure Section 1822.50 through 1822.59.

#### 4.01.70 Applicability of General Provisions of the District Code

Unless specifically referred to in the various Sections of this Fire Prevention Code, Section 1.02.03 (Board of Director Review) and Section 1.02.04 (Appeals of the District Code) are not applicable to the Fire Prevention Code.

4.01.80 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 Prevention Code, or cause same to be done, in conflict with or in violation of any of the provisions of this Fire Prevention Code.
  2. To violate any provision or to fail to comply with any of the requirements of this Fire Prevention Code.
  3. To cause, aid, abet, or conceal the fact of a violation of this Fire Prevention 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 reinspection.
1. Service. A notice of violation issued pursuant to this Fire Prevention 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 Prevention 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 Prevention 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 (including firms or corporations) who shall violate a provision of this Fire Prevention 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 Prevention Code, shall be guilty of a misdemeanor except for those specifically declared by the Fire Prevention Code to be an infraction. Notwithstanding any other provision of the Fire Prevention 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 Prevention Code within one (1) year; and a fine not exceeding five hundred (\$500) dollars for a third violation of the Fire Prevention 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 Prevention 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 Prevention Code, any condition caused or permitted to exist in violation of any of the provisions of the Fire Prevention 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 Prevention 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 Prevention 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 Prevention 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 Prevention 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 Prevention Code or by law for the purpose of enforcing the provisions hereof.

- J. Attorney Fees. In any legal action or administrative action commenced by the District to abate a public nuisance, to enjoin a violation of any provision of the Fire Prevention Code, or to enforce the provisions of the Fire Prevention Code, or the collection of a civil debt owing to the District, the prevailing party shall be entitled to recover, in any such action, its reasonable attorneys' fees and costs to suit, provided that the District elects at the initiation of individual actions or proceedings, to seek recovery of its own attorney fees.

**SECTION 2** Chapter 4.02.100 of the District Fire Prevention Code is Amended and Restated as follows:

#### Chapter 4.02.100 CALIFORNIA FIRE CODE

##### 4.02.110 Adoption by Reference of "California Fire Code" in its entirety as Charter 4.02

The Los Osos Community Services District adopts by reference the 2010 California Fire Code, with the exception of Appendix A, D, E, G and J in its entirety to Title 4 of the Los Osos Community Services District Fire Prevention Code. This will include all annual supplements and State Amendments and Errata, for the protection of public health and safety.

##### 4.02.120 Establishment of Board of Appeals

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 Chapter, 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.

##### 4.02.130 Definitions

Whenever the word "jurisdiction" is used in the California Fire Code, it shall mean the Los Osos Community Services District boundary.

4.02.140

The California Fire Code adopted by this Chapter and the following amendments only modify and change the identified sections. All other provisions are adopted without change.

**A. Fire Apparatus Access Roads**

Section 503 is added to read as follows:

**503.1.2.1 Maximum Dead-end Road Lengths.** The maximum length of dead-end roads, including all dead-end roads accessed from a dead-end road, shall not exceed the following cumulative lengths, regardless of the number of parcels served:

<b>Parcel size</b>	<b>Length</b>
less than one (1) acre	800 feet
1 acre to 4.99 acres	1320 feet
5 acres to 19.99 acres	2640 feet
20 acres or larger	5280 feet

All lengths shall be measured from the edge of the roadway surface at the intersection that begins from the road to the end of the road surface at its farthest point. Where a dead-end road crosses areas of differing zoned parcel sizes requiring different length limits, the shortest allowable length shall apply. Where parcels are zoned five (5) acres or larger, turnarounds shall be provided at a maximum of 1320 feet or 1/4 mile intervals.

**503.2.3 Surface.** Fire apparatus access roads shall be designed and maintained to support the imposed loads of at least 40,000 lb. fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. An all-weather surface road shall maintain ninety-five percent (95%) compaction as described in the County Engineering standard for an A-1j rural roadway.

**503.2.5.1 Cul-de-Sac.** (temporary or permanent). The minimum outside turning radius shall be forty (40) feet unobstructed. The inside radius shall be twenty (20) feet. When parking is permitted within the cul-de-sac, the minimum outside radius from center to curb shall be forty-eight (48) feet.

**503.2.6 Bridges and elevated surfaces.** 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 the following:

Surface	Maximum Grade
All-weather <sup>1</sup>	Less than 12%
Nonskid <sup>2</sup>	12% to 16%
Nonskid <sup>3</sup>	Over 16%

Notes:

- (1) An all-weather surface road shall maintain ninety-five percent (95%) compaction as described in the County Engineering standard for an A-1j rural roadway.
- (2) Surface shall be asphalt or concrete as specified in San Luis Obispo County Standard Specifications and Improvement Drawings including a nonskid finish.
- (3) A road with a grade greater than sixteen percent (16%) and less than twenty percent (20%) may be authorized through an adjustment as set forth in Sections 22.54.020 F (Adjustments) of the County Code.

**503.2.9 Driveway.** A driveway is permitted when it serves no more than two (2) structures, with no more than three (3) dwelling units per lot of record and any number of accessory structures. [Amended 1991, Ord. 2523].

**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 three hundred (300) feet, and shall be within fifty (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 three hundred (300) feet, a turn-around shall be at the building site and must be within fifty (50) feet of the dwelling. For driveways exceeding eight hundred (800) feet, turnouts shall be provided no more than four hundred (400) feet apart.

Adjustments

- a. An adjustment to the standards of subsection three (3) of this Section may be granted where proposed by the Applicant and mitigated practices are approved by the Fire Chief or his/her designee, where the mitigation provides for the ability to apply the same degree of accepted fire suppression strategies and tactics and fire fighter safety as these regulations overall, towards providing a key point of defense from an approaching fire or defense against encroaching fire or escaping structure fires.
- b. Requests for adjustment shall be filed with the Fire Chief by the Applicant or the Applicant's representative in the form of an attachment to the project application. The request shall state the specific requirement for which an adjustment is being requested, material facts supporting the contention of the applicant, the details of the adjustment or mitigation proposed and a site plan showing the proposed location and setting or the adjustment or mitigation measure, where applicable. A request for adjustment shall be approved by the Fire Chief or his/her designee when it has been determined that the criteria for adjustment are satisfied as described in this subsection (a).

**B. Section 505 - Premises Identification**

Section 505.1 is amended 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. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of: Residential six (6) inches, Commercial eight (8) inches, and Industrial ten (10) inches high with a minimum stroke width of 0.5 inch (12.7mm).

**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.

**C. SECTION 903 – Automatic Sprinkler Systems**

Section 903 Automatic Sprinkler Systems is amended and reads as follows:

**903.2 Where required.** An automatic extinguishing system in compliance with this code, appropriate California Building Code, National Fire Protection Association (NFPA) Standards and other standards adopted as required by the jurisdiction shall be installed:

1. In new buildings or structures where any of the following occur:
  - a. A single-story building that contains any occupancy other than Group R, H and I where the total floor area exceeds one thousand (1,000) square feet irrespective of area separation wall, or
  - b. where the building has more than one story, the floor area for these buildings shall not be considered.
  - c. any building with a fire flow of less than 750gpm at 20psi.
  - d. all Group R, H and I occupancies irrespective of square footage.Exception:
  1. Group A Division 5 occupancy.
2. Throughout existing buildings or structures where:
  - a. the floor area is increased by one thousand (1,000) square feet. Floor area shall be cumulative with each issuance of a building permit regardless of any change in ownership.
  - b. when alteration to the building exceeds fifty percent (50%) of the floor area.
  - c. the building, other than an R-3, with the addition, has more than one story.
  - d. an R-3 occupancy has more than two stories.
  - e. a change of use or occupancy of a structure that will allow either commercial or public use.Exception:
  1. Occupancy classification changes to F, M, S and U from an equivalent category as defined.
3. Automatic fire sprinklers installed at exterior locations shall be approved corrosion-resistant devices when environmental

conditions warrant.

4. Fire hose threads used in connection with fire-extinguishing systems shall be national standard hose thread or as approved by the fire department.
5. Any addition to existing buildings equipped with an automatic fire sprinkler system.
6. At the top of rubbish and linen chutes and their terminal rooms. Chutes extending through three or more floors shall have additional sprinkler heads installed within such chutes at alternate floors. Sprinkler heads shall be accessible for servicing.
7. In rooms where nitrate film is stored or handled. See 4204.2.
8. Valves on connections to water supplies, sectional control valves, and other valves in supply pipes shall be supervised open by one of the following methods:
  - a Central station, proprietary, or remote station signaling service.
  - b Local signaling service that will cause the sounding of an audible signal at a constantly attended point.
  - c Valves locked in the open position.

Exception: Underground key or hub valves in roadway boxes provided by the municipality or public utility need not be supervised.

9. 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.

**D. Section 3309-Reserved:**

Section 3309 Reserved is amended and reads 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. Storage of fireworks in accordance with the

requirements for low order explosives in Title 19, California Code of Regulations, Chapter 10.

2. Storage of fireworks, 1.4G in accordance with the Building Code.
3. Use and handling of fireworks for professional display in accordance with Title 19, California Code of Regulations, Chapter 6.

**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.

## **E. Appendix B 105 – Automatic Sprinkler Systems**

### **B105.2 Exception # 3 is added to read as follows:**

Exception:

3. Buildings on parcels where there is no water purveyor, or the water purveyor's current system cannot meet fire flow duration requirements without excessive system modifications, or when the property is greater than three hundred (300) feet from an approved hydrant, an on-site storage tank may provide the fire protection water supply when the building has an approved automatic sprinkler system. The chief shall approve the location, capacity, connections and other appurtenances.

**SECTION 3** Chapter 4.04.00 of the District's Fire Prevention Code is Amended and Restated as follows:

### Chapter 4.04.00 FIRE HAZARDS/WEED AND WASTE MATTER ABATEMENT

#### 4.04.01 Introduction

- A. The following enforcement provisions are in addition to other enforcement provisions referenced in the various Sections of this Fire Prevention Code.
- B. 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.

#### 4.04.10 Weeds Constituting Fire Hazards

- A. The District Board of Directors declares that all weeds which are described in this section 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, impedes access to fire protection systems or facilities and are further declared to be a public nuisance such as those that block the vision of drivers or pedestrians.
  
- B. The term "weeds" includes
  - 1. 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;
  - 2. Weeds which are otherwise noxious or dangerous;
  - 3. Poison oak and poison ivy, when the conditions or growth are such as to constitute a menace to the public health;
  - 4. Dry grasses, stubble, brush, dead shrubs, dead trees, litter or other flammable material which endanger the public safety by creating a fire hazard.

#### 4.04.20 Waste Matter Constituting a Fire Hazard

The District Board of Directors declares that 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, endangers the public safety by creating a fire hazard, and are further declared to be a public nuisance.

#### 4.04.30 Maintenance Unlawful

- A.. Except as provided in sub-section C below, it is unlawful for any person to maintain weeds and waste matter on public or private

property in such a manner as constitutes a public nuisance as defined in Sections 4.04.010 and 4.04.020 of this Chapter.

- B. Each day during which any violation continues shall constitute a separate offense.
- C. The District and/or the District's Fire Department shall not enforce the Weed Abatement provisions of this Chapter where enforcement would result in the taking of endangered, rare, or threatened plant or animal species or would result in significant erosion and sedimentation of surface waters. Written documentation from the United States Fish and Wildlife Service or other agency with jurisdiction, stating that enforcement will result in the taking of endangered, rare, or threatened plant or animal species, is required to qualify the property for this exemption. The Code Enforcement Officer shall determine whether or not enforcement would cause significant erosion and sedimentation of surface waters.

#### 4.04.40 Duty of Property Owner to Abate

- A. It shall be the duty of every Property Owner to abate all public nuisances defined in 4.04.10 and 4.04.20 (above) existing upon that property, which shall be deemed to include for purposes of this chapter the abutting half of the street and/or alley, and between the property lines thereof as extended.
- B. The word "street" as used in this section shall be deemed to include the sidewalk space thereof.
- C. Any Property Owner who fails to abate a public nuisance within the time prescribed in any notice or order provided for herein, shall be assessed the cost of inspection and/or issued a citation.
- D. A violation of any notice or order to abate a public nuisance shall constitute a misdemeanor.
- E. In any action to abate a nuisance, whether by administrative proceedings, judicial proceedings, citation or summary abatement, the owner of the parcel upon which the nuisance is found to exist shall, in addition to any other fine or penalty, be liable for all costs of abatement incurred by the District, including, but not limited to, administrative costs, and any and all costs incurred in the physical abatement of the nuisance. Recovery of costs pursuant to this section shall be in addition to and shall not limit any prevailing party's right to recover costs pursuant to Sections 1032

and 1033.5 of the code of Civil Procedure or any other provision of law.

- F. The costs identified in subsection C and E above constitute a lien on the parcel of real property that is the subject of the abatement proceedings and said costs shall run with the land. If a citation is issued the fine shall be paid to the court by the Property Owner.

#### 4.04.50 Means of Enforcement - Discretion of Code Enforcement Officer

In addition to the provisions of this Chapter, the Code Enforcement Officer has the discretion to enforce the provisions of this Chapter as follows:

- A. The use of the enforcement provisions found in Chapters 1 & 2 of the District Fire Prevention Code and/or:
- B. The enforcement provisions identified in the Chapter 1.03 of Title 1 of the District Code or any of the provisions found in the Fire Protection District Law.

#### 4.04.60 Notice(s) of Violation and Correction Orders. Informal Administrative Remedy

- A. Where a Code Enforcement Officer determines that informal resolution of a violation or purported violation of this Chapter is appropriate, the Code Enforcement Officer shall notify the Property Owner, in writing, that a public nuisance is alleged to exist upon the owner's property.
- B. Such notices shall be served pursuant to Section 4.04.70B and shall:
  - 1. Require the Property Owner to respond to the allegation within fourteen (14) days of the date of this notice.
  - 2. Provide notice of the exemption provision of Section 4.04.30C.
  - 3. Provide notice that should the Property Owner fail to timely respond to such notice, the cost of future inspections verifying the alleged code violation shall be charged to the Property Owner and made a lien on the property in addition to any other costs identified in Section 4.04.040E.

4. Provide the name and contact of the Code Enforcement Official.

#### 4.04.70 Service of Notice of Violations

The Code Enforcement Officer shall provide notice of violations of this Chapter as follows:

- A. A notice of violation issued by a Code Enforcement Officer pursuant to this Chapter 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
- B. The failure of any Property Owner or other party entitled to notice under this Chapter to receive such notice shall not deprive the District of jurisdiction to proceed or affect in any manner the validity of the proceedings taken or to be taken or any assessment.

#### 4.04.80 Order to Correct, Eliminate Fire Hazard or Citation

- A. Notwithstanding any other provision of law, or enforcement procedures enumerated in this Chapter, the Code Enforcement Officer may issue a written order or citation to correct or eliminate a fire hazard or life hazard. The form of the written order to correct shall contain the following information.
  1. The Section of this Fire Prevention Code violated and a description of the violation;
  2. The address or a definite description of the location of the violation;
  3. The date that the fire hazard or life hazard must be abated;
  4. That every person who fails or refuses to correct or eliminate a fire hazard or life hazard after a written order is guilty of a misdemeanor;

5. A description of the administrative review process, including the time in which the administrative order may be contested and a copy of the form to request a hearing;
  6. The name and signature of the citing Enforcement Officer.
- B. Any person who has been ordered to immediately correct or eliminate a fire hazard or life hazard pursuant to subdivision A and who believes that strict compliance with the order would cause undue hardship may, within ten (10) days of service of the written Order, present a written request to the District, in care of the District General Manager, requesting a hearing on and a review of the order. The request shall state the reasons for making the request. If a citation is issued the hearing will take place in court.
- C. Form: Request for Hearing on and Review of Order Correcting or Eliminating Fire or Life Hazard to the Los Osos Community Services District of State of California.
1. On \_\_\_\_\_ [date], petitioner was ordered to \_\_\_\_\_ [correct or eliminate][specify fire or life hazard] by written notice signed by \_\_\_\_\_, of the District Fire Department. A copy of the order is attached, marked Exhibit \_\_\_\_\_ and by reference made part hereof.
  2. Strict compliance with such order would cause petitioner undue hardship for the following reasons:
  3. Petitioner therefore requests that the order be modified in the following respects: \_\_\_\_\_ [specify] and that the District set a time and place for a hearing as prescribed by law to determine whether the aforementioned circumstances justify the proposed modification of the order.

Dated

Signature: \_\_\_\_\_  
Agent/Owner/Lessee

- D. Within thirty (30) days of the receipt of a written request pursuant to subdivision B, the District shall hold a hearing. The District Hearing Officer may modify, vacate, or affirm the order.
- E. The Fire Chief or his/her designee is the Hearing Officer. In no event shall the Hearing Officer be the citing Code Enforcement

Officer or a subordinate of the Code Enforcement Officer. In the absence of an appointed Hearing Officer the District General Manager or his/her designee shall be the Hearing Officer.

F. Hearing Procedures:

1. The failure of the petitioner to appear at the administrative citation hearing shall constitute a forfeiture of the request for modification and a failure to exhaust their administrative remedies.
2. The order to correct and any additional report submitted by the Enforcement Officer shall constitute prima facie evidence of the respective facts contained in those documents.
3. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision to affirm, modify or vacate the written order to correct or eliminate a fire hazard or life hazard and shall list in the decision the reasons for that decision. The decision of the Hearing Officer shall be final.
4. Within fifteen (15) days following conclusion of the hearing the Hearing Officer shall serve his/her order as provided in Section 4.04.070 or as otherwise requested at hearing.

G. Issuance of Citation; Noncompliance as Misdemeanor

1. Any citation issued by the District for violation of a Fire Prevention Code or a District Ordinance may be processed pursuant to Subdivision (d) of Section 17 of the Penal Code.
2. Every person who fails to correct or eliminate a fire, life or safety hazard after written order of the Hearing Officer or Code Enforcement Officer is guilty of a misdemeanor.
3. Every person who falsely impersonates a member of the District Fire Department or an officer or employee of the District is guilty of a misdemeanor.
4. Every misdemeanor is punishable pursuant to Section 19 of the Penal Code.

4.04.100 Summary Abatement of Fire Hazards

- A. Pursuant to Government Code Section 61623.5 the provisions of Part 5 (commencing with Section 14875) Division 12 of the Health and Safety Code are incorporated herein by reference.
- B. 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 the "persons" designated in Section 14890 of the Health and Safety Code.

**SECTION 4. Incorporation of Recitals**

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

**SECTION 5. 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 6. Effects 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 7. CEQA**

The District Board of Directors has considered the Amendment and Restatement of the District's Fire Prevention 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;

- (1) That the adoption Chapters 4.01 and 4.02 of this Amendment and Restatement of the District Fire Prevention Code, including amendments to the California 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 Chapters 4.01 and 4.02 of the District Fire Prevention 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 Chapters 4.01 and 4.02 of the District Fire Prevention 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 Chapters 4.01 and 4.02 of the District Fire Prevention Code, including the amendments to the California Fire Code may have a significant effect on the environment.

- (2) That the adoption of Chapter 4.04 of this Amendment and Restatement of the District Fire Prevention Code related to weed abatement is exempt from review pursuant to Section 15304 of the CEQA Guidelines which exempts from CEQA review minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. The Board of Directors further finds that Chapter 4.04 of the Districts Fire Prevention Code exempts Property Owners from weed abatement where such activities would result in the taking of endangered, rare, or threatened plant or animal species or would cause significant erosion and sedimentation of surface waters.

The District General Manager is authorized to prepare, execute and file a notice of exemption pursuant to the above provisions.

### **SECTION 8. 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 9.**

Nothing within this Ordinance or the amendment and restatement of the District Fire Prevention 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 8 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

**SECTION 10. 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 11. 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 as provided in Section 10, above, 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 04, 2010, and passed and adopted by the District Board of Directors on the \_\_\_\_ day of November, 2010, by the following roll call vote to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
MARSHALL OCHYLSKI, PRESIDENT

ATTEST:

\_\_\_\_\_  
DAN GILMORE, DISTRICT GENERAL MANAGER  
AND SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
JON SEITZ, DISTRICT COUNSEL