

ORDINANCE No. 01-2013

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE SAN MIGUEL COMMUNITY SERVICES DISTRICT
ADOPTING WITH AMENDMENTS THE CALIFORNIA FIRE CODE 2013 EDITION,
THE 2012 EDITION OF THE INTERNATIONAL WILDLAND URBAN INTERFACE
CODE AND THE 2013 NATIONAL FIRE PROTECTION ASSOCIATION STANDARD
1144**

WHEREAS, the San Miguel Community Services District ("District") is a special district formed pursuant to California Government Code Sections 61000 et seq.; and

WHEREAS, California Government Code Section 61100(d) provides that a Community Services District has the express power to supply the inhabitants of the District with fire protection in the same manner as a fire protection district formed pursuant to the Fire Protection District Law (Health and Safety Code Sections 13800 et seq); and

WHEREAS, Section 13869 of the Health and Safety Code of the State of California provides that a District may adopt a fire prevention code by reference pursuant to Article 2 (commencing with section 50022) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code; and

WHEREAS, the Board previously approved Resolution No. 2010-09 setting forth the necessary local, climatic, geographical and topographical conditions findings to amend sections of the 2007 California Fire Code pursuant to California Health and Safety Code Sections 13869.7, 18941.5 and 17958.7
; and

WHEREAS, on December 16th 2010 , Ordinance No. 02-10 was adopted adopting and amending the 2010 California Fire Code, 2009 Edition of the International Wildland Urban Interface Code and the 2010 National Fire Protection Association Standard 1144;
and

WHEREAS, in order for the District to provide better and more comprehensive fire protection service to its inhabitants, the District desires to adopt, with amendments, the most current editions of the: California Fire Code – 2013 edition, the International Wildland Urban Interface Code – 2012 edition, and the 2013 National Fire Protection Association Standard 1144.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the San Miguel Community Services District as follows:

SECTION 1: ADOPTION OF CODES.

- A. 2013 California Fire Code. Except as amended herein, the 2013 California Fire Code, as amended, including all Articles and Appendices, is hereby adopted by the San Miguel Community Services District and incorporated herein by this reference as though set forth in full.

- B. 2012 International Wildland Urban Interface Code. Except as amended herein, the 2009 International Wildland Urban Interface Code, as amended, including all Articles and Appendices, is hereby adopted by the San Miguel Community Services District and incorporated herein by this reference as though set forth in full.

- C. 2013 National Fire Protection Association Standard 1144. Except as amended herein, the 2008 National Fire Protection Association Standard 1144, as amended, including all Articles and Appendices, is hereby adopted by the San Miguel Community Services District and incorporated herein by this reference as though set forth in full.

SECTION 2: ESTABLISHMENT AND DUTIES OF THE BUREAU OF FIRE PREVENTION.

The California Fire Code, International Wildland Urban Interface Code and International Wildland Urban Interface Code shall be regulated and enforced by the San Miguel Community Services District Fire Department, operated under the supervision of the Chief of the Fire Department. The Bureau of Fire Prevention is hereby established and shall be operated under the supervision of the Fire Chief. The Fire Chief may designate such members of the department as inspectors from time-to-time as necessary.

SECTION 3: AMENDMENTS AND EXCEPTIONS TO THE 2013 CALIFORNIA FIRE CODE AND THE 2012 INTERNATIONAL WILDLAND URBAN INTERFACE CODE

Pursuant to Resolution 2013-20, the Board of Directors of the San Miguel Community Services District found that due to certain local climatic, geological and topographical conditions exist within the District, more stringent building standards relating to fire and public safety than those standards adopted by the State Fire Marshal, and contained in the 2013 California Fire Code and 2012 International Wildland Urban Interface Code are necessary for adequate and sufficient fire protection within the District. Resolution No. 2013-20 and the findings contained therein are hereby incorporated herein by this reference. Therefore, the following amendments and exceptions to the 2013 California Fire Code and 2012 International Wildland Urban Interface Code are adopted:

- A. 2013 CFC SECTION 101.1 – TITLE: is hereby amended to read:

"These regulations shall be known as the Fire Code of the San Miguel Community Services District Fire Department, (SMFD) hereinafter referred to as "the fire code." The SMFD shall also be the enforcing public entity.

B. 2013 CFC SECTION 103.2 -- APPOINTMENT: is hereby amended to read:

"Appointment. The fire code official shall be appointed by the San Miguel Community Services District Board of Directors."

C. 2013 CFC SECTION 104.1 – GENERAL: is hereby amended to add the following provision:

"The Fire Chief and his or her designees shall have the authority of Peace Officers or Public Officers pursuant to the California Penal Code sections 830.37(a) and 830.37(b) in the performance of their duties under the California Fire Code and all other adopted Fire and Life Safety codes."

D. 2013 CFC SECTION 108.1 – BOARD OF APPEALS ESTABLISHED: is hereby amended in its entirety to read as follows:

"To determine the suitability of alternate materials and types of construction and to provide for reasonable interpretations of the provisions of this code, there shall be and hereby is created a Board of Appeals consisting of the five members of the San Miguel Community Services District Board of Directors. When a San Miguel Community Services District Fire Code Appeal Board is convened, the Board of Directors shall become members of the San Miguel Community Services District Fire Code Appeal Board. The existing rules and regulations of the San Miguel Community Services District Board of Directors shall apply for appeal proceedings under this code. All decisions and findings will be placed into writing and a copy sent to the Fire Chief and the appellant."

E. 2013 CFC SECTION 202 – GENERAL DEFINITIONS: The definition of "FIRE CODE OFFICIAL" is hereby amended to read as follows:

"The San Miguel Community Services District Fire Department fire chief is the designated authority charged with the administration and enforcement of the code, or a duly authorized representative."

F. 2013 CFC SECTION 202 – GENERAL DEFINITIONS: is hereby amended to add the following definition:

SKY LANTERN – An airborne lantern typically made of paper with a wood frame containing a candle, fuel cell composed of waxy flammable material or other open flame which serves as a heat source to heat air inside the lantern to cause it to lift into the air. Sky candles, fire balloons and airborne paper lanterns mean the same as sky lanterns.

G. 2013 CFC SECTION 304.2 – STORAGE: is hereby amended in its entirety to read as follows:

- 1 "All rubbish or garbage containers that have an open top, combustible sides or lids, and or metal lids that are not tight fitting or closing must be located a minimum of 10-feet away from any combustible siding, overhang, or any other combustible portion of a building or structure.
- 2 Garbage or rubbish containers may be placed against a combustible surface or overhang provided it is protected by a domestic supply automatic sprinkler head, and the area that contains the container is so configured so the rubbish container will be positioned under the required automatic sprinkler head. This domestic automatic sprinkler head must have a shut-off valve that is identified and protected as well as approved check-valve. The San Miguel Community Services District Fire Department must approve all garbage or rubbish container automatic fire sprinkler systems."

H. 2013 CFC SECTION 307.1.1 – PROHIBITED OPEN BURNING: is hereby amended in its entirety to read as follows:

- 1 "All open burning, rubbish, burn barrels, and debris fires are prohibited within the San Miguel Community Services District's jurisdictional boundaries, except as permitted and authorized by the San Miguel Community Services District Fire Department and the San Luis Obispo County Air Pollution Control District. This amendment does not restrict barbecues in a permanent approved barbecue pit or a manufactured device designed for the purpose of being used as a barbecue, as determined by the San Miguel Community Services District Fire Department.
- 2 Warming fires and bonfires require a fire permit issued by the Fire Chief or and his or her designee."

I. 2013 CFC Section 308 Open Flames – is amended to add the following section:

308.1.6.3 Sky Lanterns – The ignition and launching of sky lanterns is prohibited.

Exceptions:

Upon the approval of the fire code official, sky lanterns may be used under the following conditions:

1. When necessary for religious or cultural ceremonies and adequate safeguards have been taken in the discretion of the fire code official.
2. Sky lanterns shall be tethered in a safe manner to prevent them from leaving the area and must be constantly attended until extinguished.

J. 2013 CFC SECTION 308.3.1 – OPEN FLAME COOKING DEVICES: is hereby amended to add the following:

"The Fire Code Official has the final decision regarding approval or disapproval of all open flame cooking devices."

K. 2013 CFC SECTION 503.1.1 – BUILDINGS AND FACILITIES : is hereby amended to add the following provision:

1 Driveway width. Proposed driveways less than 49-feet providing access to a residential building site shall be a minimum width of 12-feet and shall provide a minimum fuel modification area of 10-feet on each side of the length of the driveway. They must also have an unobstructed vertical clearance of 13 feet 6 inches and maintain that clearance during the time the building is present.

2 For longer driveways or access roads the following standards, will apply:

I. 50-200 foot driveways, 14-feet wide, with 13 feet 6 inch maintained vertical clearance, and a fuel modification area of a minimum of 15-feet on each side of the length of the driveway, with an approved turnout provided at or near the midpoint of the driveway.

II. 201 feet or greater length driveways, must be 16 feet in width, with 13 feet 6 inch maintained vertical clearance, and a 15-foot fuel modification on each side of the length of the driveway, an approved turnout provided at or near the midpoint. For driveways exceeding 300 feet in length a turnaround must be provided within 50-feet of the building site. For driveways 800 feet in length or longer turnouts shall be provided at least every 400 feet as required by the Fire Department.

III. If the residential property is located in a CAL Fire designated High or Very High Wildland Severity Zone and/or a mapped San Miguel Community Services District Fire Department High and or Very High Wildland Fire Risk Area, driveway widths shall be a minimum of 16-feet wide and have a minimum 12-foot fuel modification area on each side of the driveway for the entire length of the driveway.

L. 2013 CFC SECTION 503.2.3 – SURFACE: is hereby amended in its entirety as follows:

"All fire apparatus access roads must be able to support a minimum of 40,000 pounds."

M. 2013 CFC SECTION 503.2.4 – TURNING RADIUS:, is hereby amended in its entirety to read as follows:

"The turning radius of a fire apparatus access road or driveway shall be at least 28 feet inside radius and 48 feet outside radius.

Exception: When the building is completely protected by an automatic sprinkler system, including all decks and or overhangs and porches with a combustible covering, this requirement may be modified, at the sole discretion of the Fire Chief."

N. 2013 CFC SECTION 503.2.7 – GRADE: is hereby amended in its entirety to read as follows:

“Fire apparatus access roads or driveways must have a minimum level of improvement based on the grade of the driveway that provides access from the public road or right-of-way to the building site. Driveways with less than a 12% grade must be constructed of a minimum of red rock or other type base to provide an all-weather road surface. Driveways greater than 12% must be constructed of a minimum concrete, asphalt, pavers, or other suitable surface to provide an all-weather non-skid surface. Driveways that exceed 16% grade in any section must be constructed of an all-weather, non-skid surface and be designed and approved by a Registered Civil Engineer.”

O. 2013 CFC SECTION 503.4 – OBSTRUCTION OF FIRE APPARATUS ACCESS ROADS: is hereby amended in its entirety to read as follows:

“The Fire Chief and/or his or her authorized representatives, shall have the power and authority to remove or cause to remove, without notice, any vehicle or object parked or placed in violation of the California Fire Code. The owner of the vehicle or other object removed is responsible for all towing, storage and other charges incurred.”

P. 2013 CFC SECTION 503.5.1 – SECURED GATES AND BARRICADES: is hereby amended in its entirety to read as follows:

“Only San Miguel Community Services District Fire Department approved locking devices may be utilized.”

Q. 2013 CFC SECTION 506.1 – KEY BOXES WHERE REQUIRED: is hereby amended in its entirety to read as follows:

“Only San Miguel Community Services District approved locks shall be installed on gates or similar barriers when required by the code official. A manual disconnect is required if the gate or similar barrier is powered, that will allow manual opening and unlocking in the event of a failure of the device or power supply.”

R. 2013 CFC SECTION 506.1.1 – LOCKS: is hereby amended in its entirety to read as follows:

“Only Knox Company or other key boxes approved by the Fire Chief or and his or her designee are allowed.”

S. 2013 CFC SECTION 507.5.5 – CLEAR SPACE AROUND FIRE HYDRANTS: is hereby amended in its entirety to read as follows:

“A minimum 5-foot clearance is required around all fire hydrants located on vegetated property or around hydrants located on or adjacent to vacant parcels, as determined by the Fire Chief or his or her designee.”

T. 2013 CFC 509.1 –IDENTIFICATION: is hereby amended by adding the following provision to read as follows:

“All Automatic Fire Sprinkler- Fire Department Connections, (FDC’s), shall be identified as required by the Fire Chief or their designee, and shall have three one-inch wide white reflective stripes, placed one-inch apart on the piping or

other visible location. For residential sprinkler connections, standpipes or other fire protection devices a permanent sign shall be affixed to the device identifying at a minimum the address served, the necessary pressure, and the type of device. The minimum size shall be 12" x12" and must be approved and located as stipulated by the Fire Chief or his or her designee."

- U. 2013 CFC SECTION 901.7 – SYSTEMS OUT OF SERVICE: is hereby amended y to read as follows:

"Any time that any fire protection system or device is out of service, the Fire Chief or and their designee shall be immediately notified. The Fire Chief or his or her designee may require immediate evacuation and or cessation of usage and occupancy of the building; until such time that the fire protection system or device has been returned to service. The Fire Chief or his or her designee must approve fire-watches and a written log must be completed and maintained for the entire duration of the fire watch. The log is to remain on the premises and be available for immediate review by the Fire Chief or his or her designee. Where utilized, fire watches shall be provided with at least one approved means for notification of the fire department, and their only duty shall be to perform constant patrols of the protected premises, keep watch for fires, and to maintain the required written log."

- V. 2013 CFC SECTION 903.2 – AUTOMATIC FIRE SPRINKLER SYSTEM, WHERE REQUIRED: is hereby amended in its entirety to read as follows:

"An automatic fire sprinkler system that meets or exceeds the California Building Code Standards, National Fire Protection Association (NFPA) Standards and all other recognized standards as approved by the San Miguel Community Services District Fire Department shall be installed as follows:"

- 1 All new buildings in all Groups regardless of size shall be protected by an automatic fire sprinkler system. Covered patio areas or other common areas that are protected on three sides will be included in sprinkler coverage area. All new buildings that are mixed use occupancies are required to be entirely protected by a NFPA 13 compliant automatic fire sprinkler system.
- 2 All buildings in all Groups proposals to build an addition or to perform an alteration or remodel where the total square footage will be 25% or more of total building square feet, must be protected by an approved automatic fire sprinkler system. In addition all existing or remodeled buildings, which are or will include a mixed-use occupancy must be entirely protected by a NFPA 13 compliant automatic fire sprinkler system regardless of square footage. If any existing building in all Groups except Group-R is deemed to be more hazardous due to building construction, materials or equipment stored inside of the occupancy, or the occupancy type, the entire building must be protected by an approved NFPA Automatic sprinkler system, as determined and approved by the Fire Chief or his or her designee.
- 3 All new buildings and other accessory buildings including but not limited to attached garages, granny units, guesthouses, studios or other residential units or buildings regardless of square footage must be protected by an

automatic sprinkler system. Storage sheds, detached garages and agricultural building 500 square feet or less are excluded. All buildings must be separated by the minimum horizontal distance as required in the California Build Code or other application codes in order to qualify as a separate building, in no case shall this separation distance be less than 10 ft. at the closest point.

- 4 All existing buildings, unless excluded, that are altered, Remodeled or occupancy type changed shall require the installation of automatic fire sprinkler.
5. These requirements shall be followed, unless the California Fire Code or the Building Code is more restrictive, whereby the more restrictive standard shall apply.”

W. 2013 CFC SECTION 903.3.2 – QUICK RESPONSE AND RESIDENTIAL SPRINKLERS: is hereby amended in its entirety to read as follows:

“All Group-R residences must have an approved automatic fire sprinkler head(s) installed in all attic or other areas where a forced air unit (FAU) or other open flame or heat producing device is located. An automatic sprinkler head must also be installed in all Group-R elevators and similar shafts. An inspector’s test valve must also be installed in all Group-R buildings at the point furthest opposite from where the fire sprinkler riser enters the building. The location of these sprinkler heads and inspectors test valves locations are subject to approval by the San Miguel Community Services District Fire Department.”

X. 2013 CFC SECTION 903.4 – SPRINKLER SYSTEM SUPERVISION AND ALARMS: is hereby amended in its entirety to read as follows:

“Where required, all automatic sprinkler systems shall be electrically monitored by a supervised Central Station, listed by Underwriters Laboratory for receiving fire alarms. Valve monitoring, water flow and trouble signals shall be distinctly different when transmitted to the central station.

Exceptions:

- 1 Isolated specialty systems such as paint spray booths, closets and storage spaces or smaller buildings with less than 20 heads, unless the entire occupancy is protected by an automatic sprinkler system.
- 2 All Residential occupancies where the number of heads is less than 50.
- 3 All other Building Groups that have less than 50 heads, unless they are located in a remote area, as determined by the Fire Chief, and the lack of monitoring could cause a significant delay in the report of the system activation.”

Y. 2013 CFC SECTION 904.11.4 – SPECIAL PROVISIONS FOR AUTOMATIC SPRINKLER SYSTEMS: is hereby amended in its entirety to read as follows:

“Automatic fire sprinkler systems protecting commercial type cooking equipment, including new and existing outdoor permanent barbecues, shall be supplied from a separate, readily accessible, indicating-type control valve that is identified. All permanent outdoor barbecues, regardless of size or fuel type must be protected by an approved automatic fire sprinkler system.”

- Z. 2013 CFC SECTION 912.2.2 – EXISTING BUILDINGS: is hereby amended in its entirety to read as follows:

“On existing buildings, wherever the fire department connection is not visible to approaching fire apparatus, an approved sign mounted as determined by the Fire Chief or his or her designee shall indicate the fire department connection location. Such sign shall meet the requirements for size and materials as determined by the Fire Chief or his or her designee. All fire department connections must have three one-inch reflective stripes placed one-inch apart on or near the fire department connection. Placement of said identification will be determined by the Fire Chief or duly authorized designee. All existing buildings that have an existing fire department connection have one (1) year in which to bring their existing signage and marking up to this standard.”

- AA. 2013 CFC SECTION 2306.2.3 – ABOVE GROUND TANKS LOCATED OUTSIDE, ABOVE GRADE: is hereby amended in its entirety to read as follows:

“All above ground liquid motor fuel tanks regardless of class of liquid or size must be permitted and approved by the Fire Chief or his or her designee.”

- BB. 2013 CFC SECTION 5504.2.1 – STATIONARY CONTAINERS: is hereby amended in its entirety to read as follows: [NEED TO DETERMINE WHERE THIS GOES...]

“No Flammable Cryogenic fluid stationary storage containers are allowed within the San Miguel Community Services District boundaries.”

- CC. 2013 CFC SECTION 5601 EXPLOSIVES AND FIREWORKS: is hereby amended in its entirety to read as described in Exhibit “A” attached hereto and incorporated herein by this reference.

- DD. 2013 CFC 5609 SEIZURE OF FIREWORKS: is hereby amended in its entirety to read as follows:

“The Fire Chief or his or her designee 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 the California Health and Safety Code, Chapter 9, except for Safe and Sane fireworks as approved by the Ordinances and regulations of San Miguel Community Service District.”

BB. 2013 CFC Section 4903 Amended. Section 4903 of the California Fire Code, entitled "Plans" is hereby amended to add the following provision:

"Almost the entire San Miguel Community Services Districts service area is located in a Cal Fire (SRA) designated High Wildland Fire Severity Zone, and San Miguel CSD Fire Department Wildland Fire/Fuel Risk Map- Medium, High and Very High Fire Risk area. The 2006 International Urban Wildland Interface Code (as published by the International Code Council) and the National Fire Protection Association (NFPA) Standard of Protection of Life and Property from Wildfire 1144 will be utilized to develop fire and life safety measures to protect life, environment and property located within the San Miguel Community Services District. When multiple standards apply the most stringent requirement will be used, as approved by the Fire Chief or his or her designee. Roof coverings, siding, decking, windows, doors, skylights and ornamental facades must meet applicable Building and Fire Code Standards and the requirements of the Fire Chief or his or her designee."

CC. 2013 CFC Section 4710.1.2 Amended. Section 4710.1.2 of the California Fire Code, entitled "Materials, Systems and Methods of Construction, Roof Coverings" is hereby amended to add the following sentence to the end of said provision:

"All roof coverings for all occupancy types in all areas within this jurisdiction are required to be Class-A roofing materials with an approved Class-A assembly."

DD. 2013 CFC Appendix-B Amended. Section B105 of Appendix B of the California Fire Code, entitled "Flow Requirements for Buildings", is hereby amended in its entirety to read as follows:

"The minimum fire flow requirements for one and two family dwellings having a fire-flow calculation area which does not exceed 3600 square feet shall be 1500 gallons per minute. All other fire flow and duration for dwellings shall not be less than specified in Table B105.1."

EE. 2013 CFC Appendix-D Amended. Section 103.6 of Appendix D of the California Fire Code, entitled "Signs" is hereby amended in its entirety to read as follows:

"Where required by the Fire Chief or his or her designee, fire apparatus access roads shall be marked with permanent: NO PARKING-FIRE LANE signs complying with the dimensions and language as determined by the Fire Chief or his or her designee. Signs shall have minimum dimensions of 12 inches wide by 18 inches high and have red letters on a white reflective or other approved background. The Fire Chief or his or her designee shall require the posting of signs on one or both sides of the fire apparatus access road as required. Sign Type A, C and D as pictured in the code are examples and the final determination of the sign size, configuration, and wording shall rest with the Fire Chief or his or her designee."

FF. 2012 IWUIC Section 402.2.2 Amended. Exceptions 1 and 2 of Section 402.2.2 of the International Wildland Urban Interface Code, entitled "Water Supply", is hereby amended to read as follows:

"Individual structures hereafter constructed or relocated into or within *wildland-urban interface areas* shall be provided with a conforming water supply in accordance with Section 404.

Exceptions:

1. Structures constructed to meet the requirements for the class of ignition-resistant construction specified in Table 503.1 for a nonconforming water supply.
2. Buildings containing only private garages, carports, sheds and agricultural buildings with a floor area of not more than 500 square feet (56 m²).

GG. 2012 IWUIC Table 502.1 Amended. Table 502.1 of the International Wildland Urban Interface Code, entitled "Fire Hazard Severity" is hereby repealed.

JJ. 2012 IWUIC Appendix-C Amended. Appendix C of the International Wildland Urban Interface Code, entitled "Fire Hazard Severity Form" is hereby amended in its entirety to read as follows:

"In order to determine the applicable Fire Hazard Severity Class rating for the fire code requirements of any project the CAL-Fire, State Fire Hazard Severity Zone Rating that is in effect or has been adopted for the San Miguel CSD Fire Department services area and, or the current San Miguel CSD Fire Wildland Fire Risk map will be utilized to determine the requirements for the ignition resistant class rating. When there is a conflict between these two maps the more stringent requirement of the two documents shall be applied."

SECTION 4 REPEAL OF ORDINANCE No. 08-10.

Ordinance No. 08-10 is hereby repealed in its entirety.

SECTION 5 PUBLICATION OF ORDINANCE

Within fifteen (15) days after passage of this Ordinance, it shall be published once, together with the names of the Board Members voting thereon, in a newspaper of general circulation within the District.

SECTION 6 EFFECTIVE DATE

This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage.

SECTION 7 VALIDITY OF ORDINANCE

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Directors hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

The foregoing ordinance was introduced at a Special meeting of the Board of Directors of the San Miguel Community Services District held first on the 21st of November, 2013

- AYES: Kalvans, Harrison, Jarvis, Buckman, Green
- NOES:
- ABSENT:
- ABSTAIN:



Anthony Kalvans , President
Board of Directors

Attest:



David Bentz, Secretary and Interim General Manager

Approved as to Form

Timothy J. Carmel, District Counsel

EXHIBIT "A"

The discharge, possession and or storage all illegal fireworks is prohibited, except for professional displays that are permitted and approved by the Fire Chief or his or her designee, in accordance with Title 19, California Code of Regulations, Chapter 6.

REGULATIONS AND RULES PERTAINING TO THE RETAIL SALE AND USE OF SAFE AND SANE FIREWORKS.

The possession, storage for purposes of sale at retail and use only, sale at retail and use of "safe and sane" fireworks within the San Miguel Community Services District is allowed subject to the following rules and regulations:

(a) Definition of "Safe and Sane" Fireworks.

"Safe and Sane" fireworks shall mean those fireworks defined as "safe and sane" in California Health and Safety Code Section 12529 and classified by the State Fire Marshall as "safe and sane" in accordance with Section 12562 of the Health and Safety Code.

(b) Application.

No permits for the sale of "safe and sane" fireworks will be issued to any person, entity, organization or corporation except those recognized as non-profit associations or corporations (IRC 501(c)3 status) organized primarily for veteran, patriotic, welfare, civic betterment, or other similar charitable purposes. Proof of non-profit status shall be required by producing copies of incorporation documents as registered with the Secretary of the State of California. All applicants desiring to sell at retail "safe and sane" fireworks within the District must first make written application for a permit to the District Fire Chief. Applications for permits shall be made in writing on a form provided by the District, and submitted to the District during the period of January 1 to March 31 each year. If March 31 falls on a Saturday or Sunday, then the filing period will be extended to the next business day. Two (2) permits will be issued per year by the District. A third permit may be issued by special approval of the Board of Directors. Only non-profit organizations with their principal meeting place located within the District boundary are eligible for permit issuance. Permittees from the previous year before shall have priority.

Each permittee shall be limited to a single temporary fireworks stand or structure (hereinafter "stand") space, however multiple organizations may share a single stand.

The District reserves the right to maintain a list of additional eligible willing applicants, should a permittee fail to perform consistent with the permit terms and conditions and these regulations during any part of the allowed selling period.

Applicants shall be advised of approval or denial of their application within ten (10) business days of the close of the application period.

(c) License as a Prerequisite.

The Fire Chief shall not accept an application for a permit from any person who does not possess, and present at the time of application, evidence of a valid license to perform those acts specified on the application for a permit, as such license is defined in Health and Safety Code Section 12517.

(d) Investigation and Report.

The Fire Chief shall undertake an investigation and prepare a report of their findings and determination concerning the issuance of the permit, together with the reasons thereof.

(e) Grant or Denial of Permit.

The Fire Chief may approve or deny the permit or approve the permit, subject to such reasonable conditions, if any, as he/she shall prescribe. Such conditions may include, but are not limited to:

(i) Prepayment of a clean-up fee , in an amount set by Resolution of the District Board of Directors, which may be refunded in whole or in part, if the sale location and public areas where "safe and sane" fireworks are used, are free of used and spent fireworks and related materials by July 5, as determined by the Fire Chief;

(ii) Requiring the permittee to provide each purchaser of "safe and sane" fireworks with a copy of the restrictions and safety guidelines for the use of "safe and sane" fireworks in San Miguel, and to sign a receipt of acknowledgement agreeing to said provisions. Permittees may also be required to have each purchaser agree and provide evidence that he/she is eighteen (18) years of age or older, and that such fireworks will not be used by anyone less than that eighteen (18) year s of age;

(iii) Notwithstanding any other provision of law, the permittee will be required to furnish to the District Fire Chief with a policy of public liability and property damage insurance, with no deductible, with limits and terms set by Resolution of the District Board of Directors. The District and its officers, directors, and employees shall be named as additional insured under such public liability policy. A certificate of insurance shall be presented consistent with the above prior to sale and shall provide that the insurer will not cancel or reduce the coverage without thirty (30) days prior written notice to the District.

(iv) A non-refundable permit fee set by Resolution of the District Board of Directors may be required to cover the District's costs in administering and enforcing the provisions of this Ordinance. The permit fee shall be paid to the District upon approval of the permit.

(f) Designation of Location for Sale of "Safe and Sane" Fireworks.

Permits issued shall designate the location at which the permittee may sell at retail "safe and sane" fireworks. Applicants shall obtain, at their sole cost, all other necessary

permits or licenses from the County of San Luis Obispo or other public entity, including but not limited to, building and use permits, for the operation of a retail fireworks stand or equipment. Stands shall be separated by a linear distance of at least 600 feet.

(g) Revocation.

The Fire Chief may revoke a permit for just cause where a fire nuisance exists, or for other violation of the terms herein described, or where personal injury may occur. This determination may be appealed to the District General Manager, and subsequently, to the Board of Directors.

(h) Signage

Any approved retail location that sells "safe and sane" fireworks will be required to post a banner which shall read, "this fireworks stand is sponsored by (name of organization) located in (City or District organization is headquartered)". The banner shall be of a fire resistant material and shall have a twelve inch (12") white background with six-inch (6") solid black-block letters. The banner design and material shall be approved by the Fire Chief prior to granting permission to sell "safe and sane" fireworks. The banner shall be clearly posted above the retail area of the stand in a conspicuous location and shall be posted during the regular hours of retail operation.

(i) Salespersons.

No person under the age of 18 shall sell, or handle for sale, any "safe and sane" fireworks. No persons convicted of selling fireworks, firearms, liquor and/ or tobacco, to persons under the age of 18 within the three (3) prior to the date of permit issuance years shall sell, or handle for sale any "safe and sane" fireworks.

(j) Location of Use of "Safe and Sane" Fireworks.

"Safe and Sane" fireworks may be used only within the District boundaries, and may only be discharged on July 4 when all of the following conditions are met:

- (i) There is at least a 50' radius (100' in diameter) clear of all combustible materials;
- (ii) There is an adequate water supply provided, consisting of at least a 5/8" garden hose with an adjustable charged pressure nozzle;
- (iii) There is an adult (over the age of 18) in attendance at all times.
- (iv) If over 21 years of age, persons igniting the "safe and sane" fireworks are not over the legal alcohol limit of .08 blood alcohol concentration.
- (v) All fireworks shall be removed from sales stands by noon on July 6th.

(k) Time

Permitted sales of "safe and sane" fireworks shall be limited to the period set by Resolution of the Board of Directors of the San Miguel Community Services District, and shall not unreasonably annoy or otherwise cause a nuisance to the surrounding area. Permitted discharge or use of "safe and sane" fireworks shall be July 4th in legally permitted locations.

(l) Additional Regulations

The District Board of Directors may, by Resolution, establish additional regulations related to the possession, storage, use and sale of "safe and sane" fireworks.

(m) Violations.

In addition to any other violations provided by law, the following shall constitute violations related to the possession, storage, sale and use of "safe and sane" fireworks within the District:

- (i) To sell or offer for sale, "safe and sane" fireworks at any time outside of the period established herein.
- (ii) To use or discharge "safe and sane" fireworks at any time outside of the period established herein.
- (iii) To store any "safe and sane" fireworks without having in their possession a valid permit as required by this Ordinance.
- (iv) To store or possess any "safe and sane" fireworks for which a license is required and which has been revoked or surrendered or any license which has not been renewed, and such storage or possession is held beyond the period provided for in Section 12604 of the Health and Safety Code.
- (v) To store, sell, or discharge any "safe and sane" fireworks in or within one-hundred (100) feet of a location where gasoline or any other Class 1 flammable liquids are stored or dispensed.
- (vi) To place, throw, discharge or ignite, or fire any "safe and sane" fireworks at any person.
- (vii) To sell or transfer any "safe and sane" fireworks to a consumer or user thereof other than at a permitted stand for which all necessary licenses and permits have been issued.
- (viii) To allow or permit a fire nuisance, as defined in Section 2510 of the Health and Safety Code, to exist on any premises where any "safe and sane" fireworks are sold or stored.
- (ix) To conduct a public display without possessing a valid permit for this purpose.
- (x) To advertise to sell "safe and sane" fireworks without a valid license and permit.
- (xi) To sell, give, or deliver any "safe and sane" fireworks to a person who is under 18 years of age.

(xii) To perform any act, or transact or attempt to transact any business, with an expired license or an expired permit where a license or permit is required for the performance of such act or transaction.

(n) Penalties.

Except as provided in Section 12702 of the Health and Safety Code, any person who violates any provision of this Ordinance, or any regulations issued pursuant thereto, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five-hundred (\$500.00) and no more than one-thousand (\$1,000.00), or by imprisonment in the San Luis Obispo County jail for no more than one year, or by both such fine and imprisonment.

In addition to all other penalties, the Fire Chief may deny an application to sell "safe and sane" fireworks if the applicant has previously violated any provision of this Ordinance, or any regulations issued pursuant thereto.

(o) Violation of Ordinance.

The Fire Chief, or his or her duly authorized representative, is hereby authorized to issue citations for the misdemeanors specified in Section 13871 of the Health and Safety Code and for violations of this Ordinance. The provisions of Chapter 5C (commencing with Section 853.5) of Title 4 of Part 2 of the Penal Code shall apply.

RESOLUTION No. 2013-20

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MIGUEL COMMUNITY SERVICES DISTRICT
ADOPTING FINDINGS PURSUANT TO HEALTH AND SAFETY CODE SECTIONS 13869.7, 18941.5 AND
17958.7
FOR THE PURPOSES OF ADOPTING THE 2013 CALIFORNIA FIRE CODE
AND THE 2012 INTERNATIONAL WILDLAND URBAN INTERFACE CODE
AND AMENDMENTS THERETO

WHEREAS, pursuant to California Government Code Section 61100(d), the San Miguel Community Services District (District) has the express power to supply the inhabitants of the District with fire protection; and

WHEREAS, Section 13869 of the Health and Safety Code of the State of California, authorizes the District to adopt an ordinance that incorporates by reference fire prevention codes and amendments, and Section 13869.7(a) of the Health and Safety Code authorizes adoption of building standards relating to fire and panic safety that are more stringent than those adopted by the State Fire Marshal and contained in the California Building Standards Code, subject to making findings in accordance with Sections 18941.5 and 17958.7 of the Health and Safety Code; and

WHEREAS, in order for the District to provide improved and more comprehensive fire protection service to its residents, the District desires to adopt, with amendments, the most current editions of the: California Fire Code – 2013 edition, the International Wildland Urban Interface Code – 2012 edition, and the most current National Fire Protection Association Standard 1144.

WHEREAS, pursuant to District Fire Department Findings, more strict standards are necessary due to local climatic, geographical and/or topographical conditions that exist within the San Miguel Community Services District boundary; and

NOW, THEREFORE, BE IT RESOLVED, the Board of Directors of the San Miguel Community Services District hereby approves and adopts the findings set forth in the attached Exhibit A "*Fire Code Findings*", as prepared by District Fire Chief Rob Roberson.

BE IT FURTHER RESOLVED that the Board of Directors of the San Miguel Community Services District has determined that as a result of the climatic, geographical and/or topographical conditions set forth in the attached Exhibit A "*Fire Code Findings*," it is necessary to adopt, by ordinance, more stringent building standards relating to fire and public safety than as set forth in California Fire Code – 2013 edition, the International Wildland Urban Interface Code – 2012 edition, and the most current National Fire Protection Association Standard 1144.

RESOLUTION No. 2013-20 of Board of Directors of the San Miguel Community Services District was duly adopted at the special meeting of the Board on the 21st day of ,November 2013, on the following roll call vote:

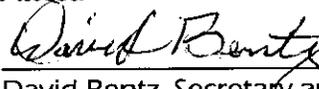
AYES: Kalvans, Jarvis, Buckman, Green

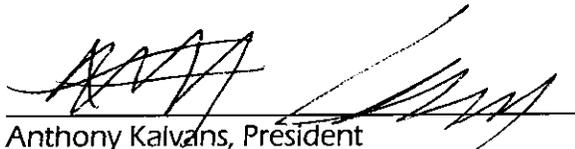
NOES:

ABSTAIN:

ABSENT: Harrison

Attest:


David Bentz, Secretary and Interim General Manager


Anthony Kalvans, President
Board of Directors

Approved as to Form

Timothy J. Carmel, District Counsel

ATTACHMENT A
Resolution No. 2013-20

**FIRE CODE FINDINGS
OF THE
SAN MIGUEL COMMUNITY SERVICES DISTRICT FIRE DEPARTMENT**

Pursuant to Sections 13869.7, 18941.5 and 17958.7 of the California Health and Safety Code, the report contained herein is for the purpose of making findings that modifications or changes to building standards relating to fire and panic safety are reasonably necessary because of local climatic, geological or topographical conditions. This Findings document supports the San Miguel Community Services District Ordinance No. XX-2013. Under this ordinance, specific amendments have been established which are more restrictive in nature than those set forth in the California Fire Code – 2013 edition, the International Wildland Urban Interface Code – 2012 edition, and the most current National Fire Protection Association Standard 1144, all of which have been adopted by the State of California.

The California Fire Code – 2013 edition, (commonly referred to as the California Code of Regulations, Title 24, Part 9) the International Wildland Urban Interface Code – 2012 edition, and the most current National Fire Protection Association Standard 1144, all of which have been adopted by the State of California will be recognized by the San Miguel Community Services District (District) Fire Department (SMFD.) The amendments made thereto by the District address the fire problems, concerns, and future directions, by which this District can establish and maintain an environment which will deliver adequate levels of fire protection and life safety protection to its citizens and visitors.

Under the provisions of Sections 13869.7, 18941.5 and 17959.7 of the California Health and Safety Code, local amendments shall be based on climatic, geographical, or topographical conditions. The Findings contained herein shall address each of these conditions that, either singularly or in combination, necessitate amendments be adopted.

SAN MIGUEL COMMUNITY PROFILE (SERVICE AREA)

Father Fermin Francisco de Lasuén founded Mission San Miguel on July 25, 1797 at latitude 35.752 and longitude 120.696. San Miguel's elevation is approximately 650 feet above sea level.

The town of San Miguel has existed and grown from that time to present. The majority of San Miguel is made up of single-family residential housing, a small commercial business district, one elementary school, and one large commercial winery. Housing areas span both sides of the Salinas River and railroad track. The San Miguel Community Services District boundary encompasses an area of approximately 5 (five) square miles, with a residential population of approximately 2500 (twenty-five hundred.)

The physical location of District boundaries lay within the northern portion of the San Luis Obispo County with its northern border approximately one mile south of the Monterey county line. The District's eastern border runs parallel to the Salinas River and encompasses the San Lawrence Terrace, then drops to approximately follow the railroad track. Its southern border runs approximately to the Mission Street Exit from US Highway 101. Its western border runs parallel to US Highway 101 and approximately 1,000 to 2,500 feet west of the Highway. Passing through the District is US Highway 101 and the River Road Bridge crossing the Salinas River; which is the only river crossing for the entire CSD boundary.

Based on the profile of the service area, the San Miguel Community Services District Fire Department established certain requirements to increase the level of fire safety to the residents of San Miguel as well as the buildings and property within its boundaries. The following factors were established as points of concern to the San Miguel Fire Department, and are herein established and submitted as the "Findings:"

ATTACHMENT A
Resolution No. 2013-20

1. CLIMATE

The climate weather patterns within San Miguel are a California chaparral environment, which is mainly dry grassland and oak woodland; (sometimes described as a "high desert" climate.) In summer, the temperature may climb to 119° F, while winters are usually cool and moist. During summer, it is not unusual to have a 50° F temperature difference between daytime high and overnight low. A steady northwest wind is present in afternoon to late evening.

Normal rainfall averages 15-20 inches annually. During the winter rainy periods, San Miguel has the potential to experience flooding along the Salinas River and drainage ways, interrupting emergency services during these flooding events. It would be imperative that the community has automatic fire suppression systems to extinguish or control a fire to which the Fire Department has a delayed response to. During summer and fall months, temperatures can average 100° plus degrees and can exceed 110° degrees for many consecutive days. Dry wind removes moisture from vegetation, causing acute fire potential. San Miguel has experienced periods of drought, which push fuel moisture levels to significant low levels for extended periods of time. During late summer and fall, wind can move fire quickly across the hills and/or through residential and commercial areas of San Miguel.

2. GEOLOGICAL

San Miguel is within an active seismic area. During the last few years earthquakes located in San Simeon and Parkfield caused seismic activity within San Miguel. Several active faults are located to the East of San Miguel and could result in damage occurring within the Community of San Miguel. The potential for severe damage does exist with these active seismic areas. The disruption of streets, roadways, railroad crossings, and especially the Salinas River Bridge crossing due to seismic damage would delay the arrival of emergency fire response and allow fires to quickly escalate beyond the department's ability to suppress them. The installation of Automatic Fire Suppression systems will allow for improved response and a faster suppression response by the automatic systems prior to Fire Department arrival.

Although the fire department and water system in San Miguel are currently rated Class-8 by the Insurance Services Offices, with the above noted hazard, it is possible that major fire flow requirements could be disrupted and automatic fire suppression systems requiring much less water would be the only means of extinguishment. A planned improvement to the community's water storage system has resulted in additional water storage; however, our community still remains short of the required amount to adequately protect the community. The San Miguel Community Services District is currently working toward a multi-year plan to improve the community water storage shortfall.

The potential for earthquakes influences fire protection planning. A major seismic event would create a community-wide demand on fire protection services, which would be beyond the response capability of the Fire Department, near shore and long distance. This potential problem can be partially mitigated by requiring initial fire control through the installation of automatic fire protection systems. This will assist in controlling or extinguishing fires in buildings, which will increase the availability of firefighting resources after seismic activity.

1. STATEMENT OF THE PROBLEM

The Fire Department is charged with the task of providing a reasonable degree of fire and life safety protection to the residents and visitors to our town. The continued development and growth of San Miguel, as it relates to the delivery of fire protection, are of major concern if we are to continue to provide even a minimum level of fire protection to our community.

These findings address the problem of community growth and cost of fire control while offering an alternative approach to the continually growing demand for publicly funded fire protection services.

ATTACHMENT A
Resolution No. 2013-20

A report by the Institute for Local Self-Government entitled "Alternative to Traditional Public Safety Delivery Systems," finds that a fire chief must move toward built-in private fire protection equipment and systems if they are to control the fire department's operational budget, and adequately address the community fire protection problem.

This study, using guidelines from the Institute for Local Self-Government and the National Fire Protection Association, proposed that the fire department control fires in all new structures built within their jurisdiction. This could be accomplished by using an established emergency response assignment that will not create a deficiency in the fire protection services currently offered to the already established community.

The San Miguel Fire Department emergency response assignment varies, depending on Volunteer Firefighter (PCF) availability. Most Fire Departments consider two engine companies, a rescue unit, an EMS unit (paramedics) and a Chief Officer to be a minimum emergency response assignment for a single-family structure fire.

The San Miguel Fire Department daily staffing includes one volunteer firefighter (who is also employed by the CSD for other duties during weekdays) and volunteers to staff a single Engine Company, and Automatic Aid response from CAL Fire/San Luis Obispo County Fire, other adjacent agencies and any available paid call firefighters. It seems reasonable that new structures constructed or additions to existing structures, in San Miguel, be protected by built-in fire protection systems. The criteria for controlling the cost of fire protection in the District is to cause (by ordinance) new structures, regardless of type of construction or occupancy, to be equipped with automatic fire sprinklers.

The amendments based upon the findings contained herein relate to the adoption of the California Fire Code – 2013 edition, (commonly referred to as the California Code of Regulations, Title 24, Part 9) the International Wildland Urban Interface Code – 2012 edition, and the most current National Fire Protection Association Standard 1144, all of which have been adopted by the State of California. The amendments made thereto by the District address the fire problems, concerns, and future direction by which this District can establish and maintain an environment which will deliver adequate levels of fire protection and life safety protection to its citizens and visitors provides a reasonable and established means of adequately protecting life, the environment and property in San Miguel.

These findings and future fire code ordinances, amendments and adoptions of the same category reduce the need for large additions to publicly funded fire protection, and allow the District to grow with reasonable expansion of the Fire Department. They also place fire protection and prevention in the community where the benefit can be realized more quickly and with greatest benefit.

While smoke detectors are intended to provide an early warning that allows occupants to escape or defend themselves from fire hazard, automatic sprinklers are meant to control or extinguish a developing fire and to enable occupants to better escape. Automatic sprinklers are designed to respond immediately to suppress fire early in the fire's development stages. This will allow for the suppression or extinguishment of fire, and still leave a breathable atmosphere for occupants to safely exit the building. Automatic fire sprinklers can also contain the fire to the building of origin, and therefore potentially keep the fire from spreading to the exterior wildland environment.

Based on these "Findings," Ordinance No. 01-2013 will provide effective protection of the residents, property, the environment and help reduce the devastation of fire.

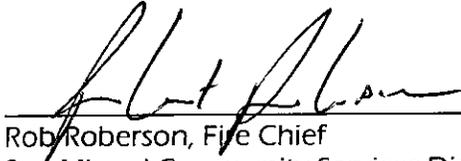
It should also be noted these findings are only a part of the total San Miguel CSD Master Plan. This may be one of the single most important elements toward the progressive improvement of the delivery of fire and life safety protection services.

ATTACHMENT A
Resolution No. 2013-20

While the adoption of Ordinances and Codes may not prevent all incidents of fire or deaths there from, the implementation of the various codes and requirements will reduce the severity and potential for the loss of life, damage to the environment and property damage in our community.

The San Miguel CSD Fire Department submits these "Findings" and requests adoption of same pursuant to the provisions of Sections 13869.7, 18941.5 and 17958.7 of the State of California Health and Safety Code.

Prepared and submitted by:



Rob Roberson, Fire Chief
San Miguel Community Services District
Fire Department