

CAPISTRANO BAY DISTRICT
AGENDA REPORT
May 27, 2014

Security Reports

ITEM F.2

Illegal Beach Fires and Enforcement – Ordinance No. 06-203

While the State Legislature reviews and decides on Assembly Bill 1102, the bill that is intended to impede and overturn the recent AQMD ruling on wood burning beach fires (prohibited in close proximity to residential areas), the District will continue to enforce its own ordinance that regulates *recreational outdoor wood burning fires*:

Beach fires must comply with the following conditions of Ordinance No. 06-203:

- *fires must be burned in a non-combustible cement fire ring or metal container*
- *fires cannot be burned within 30 feet of combustible walls, roofs, fences, etc.*
- *fires cannot produce smoke that is offensive or a health risk to neighbors*

and restrictions:

- *fuel load no higher than 18 inches*
- *no dumping of coals and charcoal on the sand*
- *no fire rings constructed of loose rocks, crumbling masonry or open pits in the sand*

Despite the uncertainty in Sacramento with the outcome of the AQMD ruling, the Health and Safety Code is not up for review or challenge and the District's ordinance was established and written to comply with HS Code sections 41509(a) *granting the District authority* and 41700(a) *intended to protect the health and safety of nearby persons from contaminating smoke and carcinogenic particulates.*

The District will be conducting beach inspections and notifying individual homeowners of firepit violations. Your fire will be red-tagged and you will be contacted for the following:

- *firepits closer than 30 feet*
- *firepits built of loose rocks or crumbling masonry material or no ring of any kind*
- *any noticeable accumulation of charcoal dumped onto the surrounding sand*

The text of Ordinance No. 06-203 follows:

ORDINANCE NO. 06-203

AN ORDINANCE OF THE CAPISTRANO BAY COMMUNITY SERVICES DISTRICT
ESTABLISHING RULES AND REGULATIONS FOR THE CONTROLLING OF
RECREATIONAL OUTDOOR WOOD BURNING FIRES WITHIN THE COMMUNITY.

THE BOARD OF DIRECTORS HEREBY ORDAINS AS FOLLOWS:

1. Replacing Old Ordinance.

Ordinance No. 203 **and No. 05-203** are hereby repealed.

2. Statement of Policy and Necessity.

WHEREAS, section 61621.5 of the Community Services District Law, Government Code Section 61000 et seq., provides that a Community Services District may adopt regulations to govern the use of it's property; and

WHEREAS, it is necessary for the Capistrano Bay Community Services District to take certain actions to promote its ability to provide those services **authorized** by the State, to wit; the protection and safeguarding of life and property; and

WHEREAS, the practice of burning **wood-fueled** recreational fires on the beach within the Capistrano Bay Community Services District jurisdiction creates a condition hazardous to the health, safety and welfare of residents and guests of the District from smoke and burning embers left in the sand; and

WHEREAS, regulations are necessary to allow prompt intervention, citation and enforcement of penalties against persons burning hazardous beach fires.

3. Definitions

For the purpose of this ordinance, "hazardous fire" shall mean any **wood-burning** fire placed within **thirty (30) feet** of combustible walls or roofs or other combustible materials **from all sides of the fire**; or on the sand outside of a non-combustible, **permanent** cement fire ring or a metal container; **or any unattended fire**; or any fire at any time that creates smoke that is offensive or a health risk to the occupants of surrounding property.

4. Hazardous Fires Prohibited

No person shall cause a fire to be burned on the beach within the Capistrano Bay Community Services District jurisdiction that is deemed to be a hazardous fire. The determination of whether a fire *itself* is hazardous or if the allowable permanent cement fire ring or metal container degrades to a state of disrepair, which could be reasonably construed to potentially cause a hazardous fire condition through its further use, shall be made and remedy enforced pursuant to this ordinance, by any **uniformed fire or police** officer, contract security officer or the District Manager.

5. Restrictions on Recreational Outdoor Wood-Burning Fires

All wood-burning fires are required without exception to observe the following restrictions:

- (a) Fuel load must measure no higher than 18 inches from the base of the fire;**
- (b) Only store-bought pre-cut corded wood shall be burned (no trash, paper, leaves, seaweed, driftwood, plastic, etc.);**
- (c) A functioning garden hose attached to a controllable and working water source must be available nearby within reasonable spraying distance of the fire ring or container;**
- (d) The accumulation of ash in the fire pit must be regularly emptied and cannot be dumped or buried in the sand in private or public areas;**
- (e) Burned wood or coals falling onto the sand must be immediately picked up;**
- (f) Wood-burning fires can never burn unattended and must always be within sight of person(s) initiating the fire.**

6. Penalties for Violation

Any person found violating any provision of this ordinance shall be deemed guilty of an infraction or a misdemeanor and shall be punished as follows:

- (a) For a first offense, punished as an infraction by a fine of **fifty** dollars (**\$50**).
- (b) For a second offense, punished as an infraction by a fine of not less than one hundred dollars (\$100) nor more than two hundred and fifty dollars (\$250).
- (c) For a third or subsequent offense, by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1000), or both.

7. Notice

The Capistrano Bay Community Services District shall post a written notice for 30 days on the community entrance bulletin board and a public notice in the legal section under the classified ads of the local Orange County Register newspaper.

Passed, approved and adopted on the **28th day of December, 2006**, by the following vote:

AYES: Martinez, Southwick, Laster, Bell
 NOES: None
 ABSENT: Bancroft
 ABSTAIN: None

Alex J. Martinez, President
 Capistrano Bay Community Services District