

ORDINANCE NO. 15-203 (*was* # 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Ordinance No. 06-203 is hereby repealed.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

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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 **two hundred and fifty dollars (\$250)**.
- (b) For a second offense, punished as an infraction by a fine of not less than **five hundred dollars (\$500)** nor more than seven hundred and fifty dollars (\$750)
- (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. Enforcement

In addition to the criminal enforcement of this Ordinance, the Capistrano Bay Community Services District may enforce the provisions of this Ordinance through a civil action for civil penalties in the amounts established in Section 6 herein, and any other civil remedy, including prohibitory and mandatory injunctive relief, filed in the court of appropriate jurisdiction in the County of Orange.

8. Notice

DRAFT

ITEM 8

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 **29th day of September, 2015**, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Ambrose S. Masto, President
Capistrano Bay Community Services District

ATTEST:

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CAPISTRANO BAY DISTRICT)

(DISTRICT SEAL)

I, Donal S. Russell, hereby certify that the above and foregoing is a true and correct copy of **Ordinance No. 15-203** adopted by the Board of Directors of the Capistrano Bay District at a regular meeting held on **September 29, 2015**.

Donal S. Russell, Manager
Capistrano Bay Community Services District