

ORDINANCE NO. 04-204

ENCROACHMENT

AN ORDINANCE OF THE CAPISTRANO BAY COMMUNITY SERVICES DISTRICT ESTABLISHING CONDITIONS AND SPECIFICATIONS FOR REGULATING AND PERMITTING THE OPENING OF BEACH ROAD FOR UNDERGROUND UTILITY REPAIRS AND MISCELLANEOUS CONSTRUCTION PURPOSES.

THE BOARD OF DIRECTORS HEREBY ORDAINS AS FOLLOWS:

1. Replacing Old Ordinance

Ordinance No. 204 is hereby repealed.

2. Statement of Policy and Necessity

WHEREAS, section 61621.5 of the Government Code provides that a Community Services District may adopt regulations to govern the use of it's property including it's roads; and

WHEREAS, section 1460 of Chapter 5.5 of Division 2 of the Streets and Highways Code grants a special district to act as road commissioner and authorizes the right to issue permits to regulate the maintenance in and on the street accepted for maintenance by the District; and

WHEREAS, section 1462 of the Streets and Highways Code provides that permits issued under this section may require the permittee to pay a reasonably determined expense based on an acceptable bidding process in repairing or replacing the road in as good condition as before and may also set conditions as to the location and manner in which the work is to be done; and

WHEREAS, regulations are necessary to allow for prompt intervention, citation and enforcement of penalties against persons unlawfully opening Beach Road.

3. Definitions

For the purpose of this ordinance "street opening" shall mean any penetration into or under the roadway, curbs, gutters, storm drains, or appurtenances by any method and the removal of any material such as asphalt pavement, concrete or gravel base from the roadway or its appurtenances.

4. Permit Required

Any person desiring to open Beach Road in any location and for any reason shall obtain an encroachment permit from the District and shall abide by the requirements set forth in the "Standard Encroachment Permit Conditions," including a \$1000.00 security deposit.

5. Penalties for Violation

Pursuant to Section 1460 of the Streets and Highways Code, any person found performing street opening activity as described in this ordinance without the authority of an encroachment permit is guilty of a misdemeanor and liable to the public agency for all expenses and damage caused thereby.

6. 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 16th day of December, 2004 by the following vote:

AYES: Jahnke, Dunn, Dailey
NOES: None
ABSENT: Martinez
ABSTAIN: Brady

Alex J. Martinez, 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 foregoing is a true and correct copy of Ordinance No. 04-204 adopted by the Board of Directors of the Capistrano Bay District at a regular meeting held on December 16, 2004.

Donal S. Russell, Manager
Capistrano Bay Community Services District