

# ORDINANCE NO. 13-202

## AN ORDINANCE OF THE CAPISTRANO BAY COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS REGULATING THE PARKING OF MOTOR VEHICLES AND THE USE OF LOW-SPEED VEHICLES (NEIGHBORHOOD ELECTRIC VEHICLES) ON BEACH ROAD.

THE BOARD OF DIRECTORS HEREBY ORDAINS AS FOLLOWS:

1. REPLACING OLD ORDINANCE.

Ordinance No. 06-202 is hereby repealed.

2. STATEMENT OF POLICY AND NECESSITY.

WHEREAS, the safety and welfare of residents of the Capistrano Bay Community Services District is impaired and jeopardized by automobiles parked on and along Beach Road for extended periods of time; and

WHEREAS, officers of the District have, in the past, been required to have such vehicles towed away for prolonged obstruction of Beach Road; and

WHEREAS, the Board of Directors has found and determined that the health, safety and welfare of its residents requires that the passageway on and over Beach Road and the Leased parking areas should be kept reasonably free and clear of obstructions, and that abandoned and illegal vehicles create a traffic and safety hazard.

3. DEFINITIONS.

a. "Vehicle" is a device by which any person or property may be propelled, moved or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks (CVC Section 670); and

b. "Highway" is a way or place of whatever nature, publicly maintained and open to the public for purposes of vehicular travel. Highway includes street (CVC Section 360).

c. "Recreational vehicle" is a motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational, emergency or other occupancy.

d. "Low-Speed Vehicle" is a motor vehicle, other than a motor truck, having four wheels on the ground and an unladen weight of 1800 pounds or less, that is capable of propelling itself at a minimum speed of 20 mph and a maximum speed of 25 mph, on a paved level surface. For the purposes of this section, a "low-speed vehicle" is not a golf cart (CVC Section 385.5). Also for the purposes of this section, a low-speed vehicle, known as a "neighborhood electric vehicle" and the driver of such vehicle are both subject to all the provisions applicable to motor vehicles (CVC Section 21251).

e. "Golf Cart" is a motor vehicle having three wheels on the ground and an unladen weight of 1300 pounds or less, which is designed to be operated at no more than 15 mph and to carry no more than two persons, including the driver (CVC Section 345).

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4. STORAGE OF VEHICLES OR MATERIALS, OBSTRUCTING TRAFFIC, USE OF GOLF CARTS PROHIBITED.

a. No person who owns or has possession, custody or control of any vehicle shall park such vehicle on or along Beach Road including District leased parking areas abutting Beach Road, for more than a consecutive period of 72 hours, except by prior written authorization of the Capistrano Bay District Manager or his assign.

b. No person who has possession, custody or control of any vehicle shall park or leave standing such vehicle upon Beach Road including District leased parking areas, in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic upon Beach Road or in any area designated "No Parking."

c. No person shall use any parking area along Beach road, including District leased parking areas, for storage of materials or equipment of any kind unless required for active construction or remodeling, with the requirement that any material or equipment required for active construction or remodeling not be placed or stored directly on the road.

d. No person who has possession, custody or control of any vehicle shall park or leave standing such vehicle or recreational vehicle anywhere within the Beach Road community in such a position as to encroach into the marked and posted fire lane, block a driveway (other than a private driveway with the express permission of the owner of the driveway), obstruct the normal movement of traffic or create a hazard to other traffic.

e. No person who owns or has custody of a golf cart shall operate such vehicle on or along Beach Road or in the leased parking areas.

At no time shall any motor vehicle in an inoperable condition be parked or otherwise stored on or along Beach Road. The determination of the operable condition of any motor vehicle shall be the exclusive judgment of the District Manager or his assign.

Non-motorized vehicles are never allowed to be parked on the roadway except under conditions where that vehicle is used during construction between the hours of 7am-5pm, Monday through Saturday, and may not remain stationary overnight or during periods of lack of use or no construction activity.

5. VEHICLES IN DISREPAIR OR CAUSING DAMAGE TO ENVIRONMENT

a. Pursuant to CVC Sections 24002 (unsafe equipment) and 38319 (operation causing damage to the environment) and EPA regulations regarding petroleum-based discharge into the environment or waterways, the parking, storing or use of any vehicle on or within the Beach Road community deemed to be unsafe or to cause littering and/or environmental damage through its parking, storage or operation is not allowed and can be summarily removed at the owner's expense from the road if it is determined using reasonable judgment to cause malicious or unnecessary damage to the land, wildlife habitat, vegetative resources or adjacent waterways. The determination of the operable condition of any motor vehicle shall be the exclusive judgment of the District Manager or his assign.

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6. PARKING DURING CONSTRUCTION ON ROADWAY OR RR PARKING AREAS

Motor vehicles of any kind used during or belonging to any contractor involved in construction within the District shall not be parked in areas designated for use by other property owners without prior written consent from respective property owners on file with the District office designating areas where motor vehicles may be parked.

7. PENALTIES

Any person guilty of violating this ordinance shall be fined \$50 for a first violation, \$100 for a second violation within one year and \$250 for a third and any subsequent violations within one year. In addition, any vehicle violating the provisions of this ordinance shall be subject to impoundment as provided in section 22651 of the California Vehicle Code.

8. 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 this 6th day of February, 2013, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Ambrose Masto, President  
Capistrano Bay Community Services District

ATTEST:

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

(DISTRICT SEAL)

I, Donal S. Russell, Manager of the Capistrano Bay Community Services District, do hereby certify that the foregoing Ordinance No. 13-202 was passed, approved and adopted at a regular meeting of the Board of Directors of the Capistrano Bay Community Services District, held on February 6th, 2013.

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Donal S. Russell, District Manager  
Capistrano Bay Community Services District