

CAPISTRANO BAY DISTRICT
AGENDA REPORT
November 14, 2023

New Business

ITEM 10b

Establishing Policy for Use of Overflow Parking Area

Before getting into the discussion of the use of the District's overflow parking area, it is helpful to understand the District's authority for creating and establishing policies and guidelines.

Three procedures available to the Board for setting policy

- Having discussion and **making a statement** in a Board meeting that becomes part of the written record in the documented and approved minutes of Board meetings.
- Executing a **Resolution** that sets forth details of how the action came about, and explains Directors' intent and purpose.
- Creating a new District **Ordinance** that contains the same information as a Resolution but carries with it an enforcement component along with monetary penalties.

District Counsel review of pertinent codes

Government Code Section 61060 (General Powers of a CSD), the Board may adopt ordinances without a community wide vote, unless such a vote is required by the California Constitution or some other statute. This means that the Board has the authority to pass ordinances on typical business matters of the District – excluded here are levying assessments and other financial impacts (these require community involvement)

Elections Code Section 9300 et. seq. (initiatives) and Section 9340 et. seq. (referendums), allow the community (or an individual) the authority to pursue initiatives or referendums on District actions, both of which require a community wide effort.

The Brown Act and Transparency

The District is bound by the Brown Act to conduct its business in open public meetings. No policies, rules, or other guidelines are passed in closed session. District business is conducted monthly in publicly announced Board meetings, the public is welcome to attend and has free open access to agendas, reports, basic rules and regs, Ordinances, etc., that are posted for the public on the District's website for anyone to review at: www.capobay.org

(See discussions related to use of the overflow parking area on the following 5 pages)

Prohibited Use of the District's Overflow Parking Area – **BOULDERS and ROCKS**

Some of the restricted uses of District leased parking areas are already outlined in another Ordinance addressing RV parking, boat storage, unused vehicles (*see Ordinance No. 13-202*).

While Ordinance No. 13-202 (see attached) discusses the restriction of placing construction materials on the parking areas, the Ordinance title can be a bit misleading since it refers mainly to parking motor vehicles and the use of golf carts.

Rather than creating a new ordinance addressing the issue of boulders and rocks, it might be more efficient to simply revise the language in the existing Ordinance No. 13-202 by including a section that better describes the placement of construction materials and making a simple revision to the title.

Prohibited Use of the District's Overflow Parking Area – **NO USE BY SHORT TERM RENTERS**

This has been the District's policy for so long that staff cannot locate the set of minutes where this was discussed and made a policy and for that reason there needs to be something documented to establish the restriction.

A new opponent of the renter parking policy (Rogers 35551) has written to the District to request that renters and their guests be allowed to park in this area (*see attached email*).

Currently, the District follows the City STR Code that grants a specific number of vehicles at any short term rental. Per code, it allows no more than two vehicles with some allowance for possibly one more. When the vehicle count has been met by the incoming renter group, the gate officer then restricts access by any additional vehicles trying to visit that address. Such visitors are requested to park outside the community. This can seem unreasonable but Security is merely following both the City STR code and the District's restriction on prohibiting overflow parking access by renters.

The big downside to allowing additional renter vehicles is that they don't park in the overflow area. Instead, they go directly to the rental address and grab the first spot they see near the house, thus blocking neighbors driveways or taking up the already limited space for neighbors' parking. This causes security patrol or our Police Officer to have to respond and try to get vehicles moved.

****Manager's Note:**

I'm not completely sold on the suggestion to revise the existing ordinance and it's probably more reasonable to hear the discussion, give this more thought and return at the next meeting with a recommendation as to how we want to document the policy.

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).

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.

Ordinance No. 13-202

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.

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

Don Russell

From: Amy Rogers <twinrogers@yahoo.com>
Sent: Saturday, November 4, 2023 4:49 PM
To: Christopher Rogers; Don Russell; Karen Morris
Subject: STR Parking Permit 551

ITEM NO. 106

Don and Karen -

Please see below permit confirming 3 approved parking spots at 551.

We are also looking to confirm the below request to Don from 10/27.

Additionally we are requesting the language you are proposing for the 11/14 board meeting discussion on overflow parking. Where does the proposal originate from? What is the procedure for new ordinances to be approved? Is it a simple vote by the board? Or are ordinances open to community discussion and then a vote?

Chris and Amy

