

ORDINANCE NO. 19-250

AN ORDINANCE OF BOARD OF DIRECTORS OF THE BEAR VALLEY COMMUNITY SERVICES DISTRICT, AMENDING CHAPTER 1, SECTIONS 2 THROUGH 4 OF TITLE 4 (MOTOR VEHICLES AND TRAFFIC) OF THE DISTRICT CODE.

The Bear Valley Community Services District Board of Directors ordains as follows:

SECTION 1. Findings. The Board of Directors finds as follows:

A. Government Code section 61105(g), provides that Bear Valley Community Services District may “for roads owned by the district...by ordinance, limit access to and the use of those roads to the landowners and residents of the district.”

B. The District has adopted regulations regarding access to District roads in Chapter 1 (General Traffic Provisions) of Title 4 ((Motor Vehicles and Traffic) of the District Code.

C. The Board of Directors desires to amend Sections 2 through 4 of Chapter 1 of Title 4 of the District Code to update the regulations and establish new procedures regarding access to District roads.

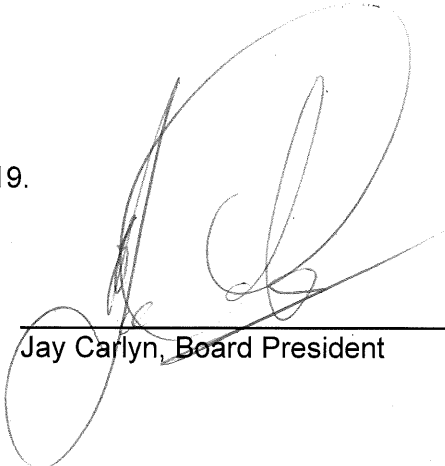
SECTION 2. Environmental Findings. The Board of Directors exercises its independent judgment and finds that this ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to following sections of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3: (1) Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); and (2) Section 15060(c)(3) (the activity is not a project as defined in Section 15378) because the subject ordinance and regulations have no potential for resulting in any significant physical change to the environment, either directly or indirectly.

SECTION 3. Amendment to Title 4 of the Code. Sections 2, 3 and 4, of Chapter 1 of Title 4 of the District Code, are amended and restated as set forth in the attached Exhibit A.

SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. Publication. The Secretary of the Board of Directors is directed to cause this ordinance to be published in the manner required by law.

ADOPTED this 11th day of April, 2019.



Jay Carlyn, Board President

ATTEST:

BY: Kristy McEwen

Kristy McEwen
Secretary to the Board of Directors

APPROVED AS TO FORM:

BY: Donald M. Davis

Donald M. Davis
District General Counsel

STATE OF CALIFORNIA)
COUNTY OF KERN) ss.

I, Kristy McEwen, Secretary of the Board of Directors of the Bear Valley Community Services District, do hereby certify that the foregoing ordinance was introduced by the Board of Directors of the Bear Valley Community Services District at a regular meeting held on March 14, 2019, and duly adopted at a regular meeting held on April 11, 2019, by the following vote:

AYES: MEMBERS: Baron; Quinn; Roberts; Hahn; Carlyn

NOES: MEMBERS: None

ABSENT: MEMBERS: None

ABSTAIN: MEMBERS: None



Kristy McEwen, Board Secretary

EXHIBIT A

4-1-2: DISTRICT ROADS:

A. Designation Of Roads: No person may operate a motor vehicle within the district except upon a district road in compliance with this chapter or upon private property with permission of the property owner. A map and list of district roads is on file in the office of the district.

B. Designation Of Rights Of Way: No person may operate a motor vehicle upon district owned property or rights of way which are not designated as a road without the prior express written permission of the district.

4-1-3: ENTRY TO DISTRICT AND ACCESS TO DISTRICT ROADS:

A. Entry With Permit: Except as provided under this section, no person may enter through the electronic or manually operated guarded gates onto district roads unless that person has been issued a gate permit by authorized district personnel.

B. Entry Without Permit: The following persons are permitted to enter the district without a gate permit:

1. Upon proper identification:

- a. Association members, and members of their family residing with them;
- b. Tenant assignees and members of their family residing with them;
- c. District residents who are neither association members nor tenant assignees;
- d. Association members who have assigned their membership rights to a tenant; and
- e. Nonresident employees of the district and the association.

Proper identification includes, but is not limited to, windshield stickers issued by the district, other electronic or visual mechanism ("credential") issued by the district to activate the district automated entry system, and use privilege cards issued by the association.

2. Operators of emergency vehicles or vehicles entering following proclamation of a local emergency.

3. Operators of vehicles on behalf of the association, government agencies, and public utilities and services, including, but not limited to, mail and package delivery services, school buses, propane trucks, sanitation vehicles, delivery vehicles to the district, the association, the general store and the service station. (Ord. 09-230, 1-8-2009)

4-1-4: GATE PERMITS:

4-1-4-1: AUTOMATED ENTRY:

A. Purpose: The purpose of this section is to establish district policy regarding entry via the district automated entry system.

B. General:

The following persons are permitted to enter the district via the automated entry system:

1. Association members, and members of their family residing with them;
2. Tenant assignees and members of their family residing with them;
3. District residents who are neither association members nor tenant assignees;
4. Association members who have assigned their membership rights to a tenant;
5. Nonresident employees of the district and the association

C. Issuance Of Credentials: Credentials for access through the automated entry system will be granted upon verification of the following:

1. Government issued photo identification;
2. Proof of residency or employment;
3. Current vehicle registration;
4. Vehicle Information:
 - a. License plate number
 - b. Vehicle Identification Number
 - c. Make & Model
 - d. 2-wheel drive, 4x4, AWD

D. One credential per vehicle will be issued.

E. Fee Required: A fee is required for each credential issued by the district. The fees are to cover the district's cost for the credentials, system operational costs and administrative costs for issuing the credentials and maintaining related records. The fees will be established by resolution of the board.

F. Ownership Of Credentials: Ownership of the credential will be with the resident or employee to whom it was issued. The district reserves the right to electronically cancel the credential for failure of the recipient to comply with the provisions of this chapter or upon receiving evidence that the recipient no longer resides at the address for which the credentials were issued or is no longer employed by the district or the association.

G. Responsibilities Of Credential Recipients: Recipients of a credential are prohibited from transferring the credential to any vehicle other than the one to which it was issued. Failure to comply will result in deactivation of the credential. Recipients must notify the district within 48 hours of a lost, stolen, damaged or destroyed credential. Issuance of a replacement credential requires payment of the appropriate fee.

4-1-4-2: SPECIAL PERMITS:

A. Types Of Permits: Various types of gate permits may be issued, depending on the need and purpose for entering the district. Permits may be valid for a specified period of time or for an indefinite period.

B. Use Of Community Facilities Not Authorized: A gate permit does not authorize the permittee use of the community facilities operated by the association.

C. Descriptions And Conditions Of Gate Permits Issued:

1. Guest Gate Permits:

- a. Guest gate permits may be issued to the guests of the district and the association upon proper authorization by those organizations.

b. Guest gate permits may be issued to the guests of association members and guests of tenant assignees upon proper authorization by the association member or the tenant assignee host. Hosts must verify their identity and provide the name of each person to whom a gate permit is to be issued. Hosts (or their designee) must be over 18 years of age to request a guest permit.

c. Guest gate permits will be valid for the period specified by the host, not to exceed 14 days unless renewed by the host.

2. Special Event Gate Permits:

a. Special event gate permits, valid only for that event, will be issued to persons attending special events that are sponsored by the district, the association, association members or tenant assignees.

b. Special event sponsors are responsible for preparing an alphabetical list of persons invited to the event and submitting the list to the district not less than 72 hours prior to the event.

c. Persons who are not on the list and are requesting entrance to attend the event must contact the event sponsor, who may then request a gate permit.

3. Gate Permits For Members Of Local Nonprofit Corporations/Associations:

a. Gate permits may be issued to members and guests of local nonprofit corporations/associations attending a meeting or event sponsored by the nonprofit corporation/association.

b. The nonprofit corporation/association must provide a list of members or persons who regularly attend meetings from outside Bear Valley. Gate permits will be issued to these persons for the stated activity only. It is the responsibility of the corporation/association to update their gate permit list as required but at least semiannually.

c. Persons who are not on the list and are requesting entrance to attend a meeting must contact the nonprofit corporation or association, who may then request a gate permit.

4. Gate Permits For Government, District And Association Employees And Contractors:

a. Employees Of Federal, State, Local Government And Association: Indefinite term gate permits may be issued to employees of federal, state and local government bodies, and the association. These permits will expire automatically upon termination of their employment or contract.

b. Contractors: Contractors who are employed or contracting with property owners, tenants, the association or the district may be issued a gate permit. The district may issue a short-term contractor permit, an extended term contractor permit or a recurring contractor permit depending on the needs and length of employment or contract of the contractor.

5. Permits For Real Estate Brokers And Agents:

a. Licensed real estate brokers and each of the broker's licensed agents may be issued gate permits valid for one year, and renewable annually.

b. Brokers are responsible for each permit issued to the broker's agents.

c. Permits issued to brokers and agents are not transferable and must be returned to the district upon termination of the agent's employment or the broker's business, or the revocation of the broker's or agent's license.

6. Permits For Business Invitees:

a. Business invitees of the district, the association, members of the association and district residents may be issued a gate permit upon proper identification.

b. Gate permits issued under this subsection will be valid for one day unless the invitee shows that a longer time is required to complete the business.

7. Permits For Process Servers, Private Investigators And Repossession Agents:

Process servers, licensed private investigators and licensed repossession agents maybe issued gate permits, valid for one day, upon proper identification.

D. Display Of Gate Permits: Permittees entering in vehicles must display their gate permits on the driver's side of their vehicle, located in a position clearly visible through the windshield from the outside.

E. Additional Policies, Regulations And Fees. The board of directors may establish by resolution additional policies and regulations for the issuance of each classification of gate permit, the procedure to obtain the gate permits, and any fees or deposits that may be required with the issuance of the gate permits.