

City of Laguna Beach  
AGENDA BILL

No. 17  
Meeting Date: 2/17/09

**SUBJECT: REPEAL OF MUNICIPAL CODE PROVISION REGARDING CAMPING AND SLEEPING UPON PUBLIC PLACES**

**SUMMARY OF THE MATTER:**

In 1927, the year that the City of Laguna Beach was incorporated, the City Council adopted Ordinance No. 23, which makes it unlawful to, among other things, “. . . pitch a tent or camp upon any beach, park, public street, alley or passageway within the City of Laguna Beach, except during the hours from 7 a.m. to 7 o'clock p.m. . . .” A copy of that ordinance is included as Attachment A to this report.

In 1946, the language was modified by Ordinance No. 266. This amendment added “sleeping” to Ordinance No. 23’s list of prohibited activities upon public places. The amendment also required people to pick up and properly dispose of their trash when visiting public places. A copy of Ordinance No. 266 is included as Attachment B to this report.

In 2000, the City Council adopted Ordinance No. 1369 to, among other purposes; further amend Section 18.04.020 regarding the use of awnings and umbrellas in public places.

The end result of these ordinances has yielded the following current language of Section 18.04.020:

Section 18.04.020 Camping and Sleeping. No person shall pitch a tent or camp or sleep upon any beach, park, public street, alley or passageway, or sleep in any automobile parked at any place within the city; provided that between the hours of seven a.m. and seven p.m. it shall not be unlawful to sleep upon any beach within the city. Awnings, umbrellas and covers over six feet tall or larger than six feet square are also prohibited.

During the City’s efforts to establish a Homeless Task Force and to develop and implement plans to

**RECOMMENDATION: See Page Three**

Appropriations Requested: \$ \_\_\_\_\_

Fund: \_\_\_\_\_

Attachments: A – Ordinance No. 23

B – Ordinance No. 266

C – Proposed Ordinance

Submitted by: Phil Kohn and John Pietig  
Phil Kohn and John Pietig

Coordinated with: Mike Sellers  
Police Chief, Mike Sellers

Approved: Kenneth Tol  
City Manager

address issues related to homelessness, questions about the regulation of camping and sleeping on public property were raised. Since February of 2008, while the City was committed to considering new policies regarding camping and sleeping on beaches, parks and other public property, the City has voluntarily refrained from enforcing and issuing citations for violations of the camping and sleeping provisions of Section 18.04.020. Any citations that were inadvertently issued during this period have been rescinded. In October of 2008, the City Council considered an ordinance to make Section 18.04.020 less strict and more flexible. The City Council rejected the suggested revisions in favor of having a City/community committee review and evaluate other alternatives in an effort to create even greater flexibility consistent with a comprehensive strategy for dealing with homelessness issues.

The policy development and implementation process is ongoing. During this time, while the City has refrained from enforcement of Municipal Code Section 18.04.020, the Police Department maintained its practice of enforcing existing provisions of state law regarding illegal lodging on private property. California Penal Code Section 647(e) provides that a person is guilty of disorderly conduct (a misdemeanor) when he or she "lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it." The Police Department has also enforced these state law provisions as to public property in the limited instances when public safety is at risk, such as when lodging occurs in areas where there is a significant risk of wildfires. Police Officers have not knowingly cited persons for illegal lodging on public property during the policy development and implementation process, and questions regarding such citations have been reviewed on a case-by-case basis by the Police Chief and the City Manager's Office.

Given that the City has voluntarily refrained from enforcement of the camping and sleeping provisions of Section 18.04.020, that state law already provides enforcement authority to cities for illegal lodging in appropriate circumstances, and to further the existing policy development and implementation process regarding camping on public property; it is recommended that Section 18.04.020 of the Laguna Beach Municipal Code be amended as follows (deletions shown as strikeouts and additions underlined):

Section 18.04.020 ~~Camping and Sleeping Canopies, awnings, umbrellas, tents and other covers.~~

No person shall install, erect or maintain any canopy, awning, umbrella, tent or cover over six feet in height or wider than six feet square on or in pitch a tent or camp or sleep upon any public beach, park, street, alley or passageway. Any canopy, awning, umbrella, tent or cover installed, erected or maintained on or in any public beach, park, street, alley or passageway shall have at least two sides completely open to public view. , or sleep in any automobile parked at any place within the city; provided that between the hours of seven a.m. and seven p.m. it shall not be unlawful to sleep upon any beach within the city. Awnings, umbrellas and covers over six feet tall or larger than six feet square are also prohibited.

There is no need for the proposed ordinance to deal with sleeping in automobiles because that conduct would be encompassed by Penal Code Section 647(e).

Consistent with its practices since February of 2008, the Police Department would continue to not enforce the Penal Code provisions on public property absent a public safety concern or other compelling legitimate reason, and would continue its enforcement on private property.

In order to determine the most effective approach to regulate camping and lodging on public property over the long-term, and in a manner that is consistent with the goals and objectives of the City Council, it is recommended that the City Council direct staff to consult with and obtain input from the Advisory Committee on Homelessness. A report would then be prepared for consideration by the City Council which includes an evaluation of the policy and implementation considerations related to using Penal Code Section 647(e) to regulate illegal lodging on public property versus the possible adoption of a new City ordinance, which may be based on other municipal regulations that have already been upheld by the courts.

### **RECOMMENDATIONS**

It is recommended that the City Council:

- (1) Adopt the ordinance included as Attachment C that amends Municipal Code Section 18.04.020 by (a) asking the City Clerk to read the title of the Ordinance and (b) approving a motion to waive further reading of the Ordinance and pass it to second reading;
- (2) Direct staff, with the assistance of the Advisory Committee on Homelessness, to evaluate the use of Penal Code Section 647(e) versus a possible new City ordinance to establish camping and lodging regulations on public property, and to return a report to the City Council with analysis and recommendations.

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ORDINANCE NO. 23.

AN ORDINANCE REGULATING CAMPING ON BEACHES, PARKS AND  
UPON PUBLIC STREETS AND ALLEYS WITHIN THE CITY OF LAGUNA BEACH.

THE BOARD OF TRUSTEES, ALSO KNOWN AS THE CITY COUNCIL,  
OF THE CITY OF LAGUNA BEACH, DO ORDAIN AS FOLLOWS:

SECTION 1. It shall be unlawful for any person to pitch a tent or camp upon any beach, park, public street, alley or passageway within the City of Laguna Beach, except during the hours from 7 a.m. to 7 o'clock p.m. and during those hours any tent so pitched shall be open from at least one side so as to permit full view of the interior of said tent.

SECTION 2. It shall be unlawful for any person to park an automobile upon any beach, park, public street, alley or passageway unless full view of the interior thereof can be had at all times.

SECTION 3. It shall be unlawful for any person to undress or dress in any automobile upon any beach, park, street, alley or passageway within the City of Laguna Beach.

SECTION 4. Any person, firm or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine not to exceed Three Hundred Dollars (\$300.00) or by imprisonment in the City Jail of not to exceed three months or by both such fine and imprisonment.

SECTION 5. The City of Laguna Beach has been incorporated for less than one year, and the said Board of Trustees, also known as the City Council, elect to post this ordinance instead of publishing the same and the City Clerk of the City of Laguna Beach is hereby instructed and directed to post, or cause to be posted three copies of this ordinance in three public places in the City of Laguna Beach and the same shall be in full force and effect thirty (30) days after the passage thereof.

Approved:

signed (Thos. A. Cummings)  
Mayor of the City of Laguna Beach

Attest:

(G. W. Prior)  
City Clerk

(SEAL)

I, G. W. Prior, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing ordinance was introduced at an adjourned regular meeting of the Board of Trustees, also known as the City Council, of the City of Laguna Beach on the 9th day of November, 1927, and was passed at a regular adjourned meeting of said Board held on the 30th day of November, 1927, by the following vote:

AYES: TRUSTEES Champion, Jahraus, Johnston,  
and Mayor Cummings.

NOES: TRUSTEES None

TRUSTEE ABSENT Brickels

(G. W. Prior)  
City Clerk of the City of Laguna  
Beach.


I hereby certify that I have this day posted true copies of the within ordinance, conspicuously in three public places in the City of Laguna Beach, to-wit: one near the entrance to the Chamber of Commerce Building, ~~to-wit: one near the entrance to the Chamber of Commerce Building,~~ the place where said City Council holds its meetings, one near the entrance to the United States Post Office, and one near the Laguna Beach County Water District Office.

WITNESS my signature, this 6th day of December, 1927.

(G. W. Prior)  
Clerk of the City of Laguna Beach.

(SEAL)

I, G. W. Prior, Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance No. 23, is a full, true and correct copy of an ordinance passed by the City Council of Laguna Beach, California, at a regular adjourned meeting held on the 30th day of November, 1927.

  
City Clerk of Laguna Beach

ORDINANCE NO. 266

AN ORDINANCE OF THE CITY OF LAGUNA BEACH REGULATING CAMPING AND SLEEPING ON BEACHES, PARKS, AND UPON PUBLIC STREETS AND ALLEYS WITHIN THE CITY OF LAGUNA BEACH; REGULATING THE DISPOSAL OF GARBAGE AND TRASH ON BEACHES, PARKS, AND UPON PUBLIC STREETS AND ALLEYS WITHIN THE CITY OF LAGUNA BEACH; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND REPEALING ORDINANCE NO. 23, AS AMENDED, OF THE CITY OF LAGUNA BEACH, AND ALL ORDINANCES AND/OR PARTS OF ORDINANCE IN CONFLICT THEREWITH.

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Section 1: It shall be unlawful for any person to pitch a tent, or to camp, or to sleep, upon any beach, <sup>park</sup> public street, alley or passageway within the City of Laguna Beach, provided however, that during the hours between seven o'clock A. M. and seven o'clock P. M., it shall not be unlawful to pitch a tent, or to camp, or to sleep, upon any beach within the City of Laguna Beach, provided any tent so pitched is open from at least one side so as to permit full view of the interior of said tent.

Section 2: It shall be unlawful for any person to park an automobile upon any beach, park, public street, alley or passageway unless full view of the interior thereof can be had at all times.

Section 3: It shall be unlawful for any person to undress or dress in any automobile upon any beach, park, street, alley, or passageway within the City of Laguna Beach.

Section 4: It shall be unlawful for any person to leave, scatter, throw, or discard any trash or garbage, as the same are hereinafter defined, upon any beach, park, public street, alley, or passageway within the City of Laguna Beach, except as hereinafter provided.

Section 5: Definition:

For the purposes of this Ordinance trash is defined as, and shall mean and include, rubbish, newspapers, magazines, all discarded paper and wrappings, tin cans, glass containers, broken glass, boxes, discarded clothing, dead animals or fish, ashes, waste wood, <sup>or</sup> any other waste material.

For the purpose of this Ordinance, garbage is defined to be all animal and vegetable refuse, all vegetable and fruit trimmings, all other refuse that shall have been prepared for, or intended to be used as food, or shall have resulted from the preparation of food, and shall also include coffee grounds, egg shells, and all other food refuse.

Section 6: It shall be the duty of every person having in his possession, charge or control, any garbage or trash, as herein in this Ordinance defined, upon any beach, park, public street, alley, or passageway, either to place said garbage and trash in public garbage and trash containers located on or in said beaches, parks, public streets, alleys or passageways, if such containers are available, or to take said garbage and trash with him when he leaves said beach, park, public street, alley or passageway within the City of Laguna Beach.

Section 7: The prohibitions, regulations and restrictions in this Ordinance contained, relative to the disposal of garbage and trash, shall not apply to the disposal of garbage and trash as defined, regulated and provided by Ordinance No. 22, of the City of Laguna Beach, as amended.

Section 8: Any violation of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine of not to exceed Three hundred Dollars (\$300.00), or by imprisonment in the City or County Jail for a period of not to exceed three (3) months, or by both such fine and imprisonment. Each day during which this Ordinance is violated shall constitute a separate offense hereunder.

Section 9: That Ordinance No. 23, as amended, of the City of Laguna Beach, and all other Ordinances and parts of Ordinances in conflict herewith be, and the same hereby are, superseded and repealed.

Section 10: This Ordinance is urgently required for the immediate preservation of the peace, public health and safety of the City of Laguna Beach, and shall be in effect immediately after its passage and publication; that the facts constituting such urgency and emergency are as follows:

That the summer vacation season is at hand and unless this Ordinance becomes effective immediately on its publication, garbage and trash will be left upon the beaches, parks, public streets, alleys and passageways within the City of Laguna Beach and will constitute a menace to the health and safety of persons using these public places.

Section 11: The City Clerk shall certify to the passage of this Ordinance, and shall cause the same to be published once in the South Coast News, and immediately thereafter the same shall take effect and be in full force.

Adopted, signed and approved this 19th day of June, 1946.

HARRY W. HALL

Mayor

Attest:

ED. H. BEAVER

City Clerk

I, ED. H. BEAVER, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of said City, held on the 5th day of June, 1946, and was finally passed and adopted at a regular meeting of the said City Council held on the 19th day of June, 1946, by the following vote, to-wit:

AYES: Councilmen Rawson, Kimble, Beach, Reed and Hall

NOES: Councilmen, None.

ABSENT: Councilmen, None.

(SEAL)

ED. H. BEAVER

City Clerk

*Completed*  
I, ED. H. BEAVER, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing is a full, true and correct copy of Ordinance No. 266, and that it was published according to law.



City Clerk of Laguna Beach.

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY OF LAGUNA BEACH AMENDING SECTION 18.04.020 OF THE LAGUNA BEACH MUNICIPAL CODE RELATING TO THE USE OF BEACHES AND PARKS**

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THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES ORDAIN AS FOLLOWS:

**SECTION 1.** Section 18.04.020 of the Laguna Beach Municipal Code is hereby amended to read in its entirety as follows:

**18.04.020 Canopies, awnings, umbrellas, tents and other covers.**

No person shall install, erect or maintain any canopy, awning, umbrella, tent or cover over six feet in height or wider than six feet square on or in any public beach, park, street, alley or passageway. Any canopy, awning, umbrella, tent or cover installed, erected or maintained on or in any public beach, park, street, alley or passageway shall have at least two sides completely open to public view.

**SECTION 2.** If any portion of this Ordinance, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, of the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

**SECTION 3.** All ordinances and provisions of the Laguna Beach Municipal Code and Sections thereof inconsistent with this Ordinance shall be and the same are hereby repealed to the extent of such inconsistency and no further.



**SECTION 4.** The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance, and shall cause the same to be published in the manner required by law in the City of Laguna Beach. This Ordinance shall become effective thirty (30) days from and after the date of its adoption by the City Council.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Kelly Boyd, Mayor

ATTEST:

\_\_\_\_\_  
Martha Anderson, City Clerk

I, Martha Anderson, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was introduced at a regular meeting of the City Council on \_\_\_\_\_, 2009, and was finally adopted at a regular meeting of the City Council of said City held on \_\_\_\_\_, 2009 by the following vote:

AYES:            COUNCILMEMBER(S):

NOES:            COUNCILMEMBER(S):

ABSENT:        COUNCILMEMBER(S):

\_\_\_\_\_  
City Clerk of the City of Laguna Beach, CA