



DATE: May 14, 2008

TO: Honorable Mayor and City Councilmembers

FROM: Harbor and Beaches, Lifeguard Division

SUBJECT: **BEACH LIFEGUARD CITATION AUTHORITY**

SYNOPSIS

Staff recommends that the City Council introduce an ordinance authorizing designated lifeguards of the City to exercise the powers of arrest pursuant to Penal Code Section 836.5, and repealing Ordinance No. 87-42.

BACKGROUND

On November 18, 1987, the Oceanside City Council approved Ordinance 87-42 authorizing designated lifeguards of the City of Oceanside to exercise the powers of arrest pursuant to Penal Code 836.5. The purpose of the ordinance was to allow designated lifeguard positions enforcement capabilities for beach- and pier-related Oceanside City Code (OCC) violations. City of Oceanside beach and pier codes could be enforced to maintain public peace and safety.

Ordinance 87-42 specifically authorized the positions of Aquatic Superintendent, Lifeguard Captain, and Lifeguard Lieutenant. At the time of adoption, these three positions were the only permanent positions under Lifeguard services.

Exhibit "A" of Ordinance 87-42 gave lifeguard positions citation authority for:

OCC 4.15	Dogs prohibited on public beach
OCC CH. 18	Municipal Pier
OCC CH. 19	Oceanside Beaches
OCC 20.35.1	City park closing hours
OCC 20.40	Drinking in public prohibited
OCC 21.01	Prohibition of glass containers
OCC 30A.2	Special events; permit required

ANALYSIS

Ordinance 87-42 authorization does not list current permanent staff positions of Beach Lifeguard Chief, Beach Lifeguard Sergeant, or Beach Lifeguard. The Aquatic Superintendent position has been replaced by the Beach Lifeguard Chief title.

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Violation of beach and pier ordinances without proper enforcement presents problems for a variety of beach patrons. Repeat offenders have learned that lifeguards are only capable of advising of beach and pier ordinances and have no power to enforce through citation. This has led to numerous ineffective enforcement contacts, lengthy detention times for offenders due to police workloads, and ultimately, public safety of beach patrons being compromised. Effective enforcement contacts ultimately resulting in citations provides consequences to offenders who choose to ignore beach and pier ordinances that provide for public safety.

The City of Oceanside Lifeguard Division recommends that citation authority be granted to position classifications of:

- Beach Lifeguard Chief
- Beach Lifeguard Captain
- Beach Lifeguard Lieutenant
- Beach Lifeguard Sergeant
- Beach Lifeguard

It is also recommended these positions be given the authority to enforce the following Oceanside City Code provisions:

- | | |
|-----------------|-----------------------------------|
| OCC 4.15 | Dogs on public beach |
| OCC 10A.3. | Smoking prohibited |
| OCC Ch. 18 | Municipal Pier (all sections) |
| OCC Ch. 19 | Oceanside beaches (all sections) |
| OCC 20.20.2 | Urinating or defecating in public |
| OCC 20.21(a)(1) | Encampment on public property |
| OCC 20.40 | Drinking in public prohibited |
| OCC 21.01 | Prohibition of glass containers |
| OCC Ch. 30A | Special Events (all sections) |

FISCAL IMPACT

No fiscal impact associated with this request.

COMMISSION OR COMMITTEE REPORT

Not applicable.

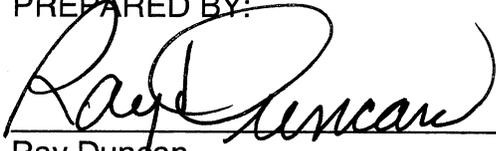
CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council introduce an ordinance authorizing designated lifeguards of the City to exercise the powers of arrest pursuant to Penal Code Section 836.5, and repealing Ordinance No. 87-42.

PREPARED BY:



Ray Duncan
Harbor and Beaches Manager

SUBMITTED BY:



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Donald L. Hadley, Deputy City Manager





ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OCEANSIDE
AUTHORIZING DESIGNATED LIFEGUARDS OF THE CITY
TO EXERCISE THE POWERS OF ARREST PURSUANT TO
PENAL CODE SECTION 836.5, AND REPEALING
ORDINANCE NO. 87-42

WHEREAS, the City Council Of the City of Oceanside desires that certain City employees, namely the Beach Lifeguard Chief, Beach Lifeguard Captain, Beach Lifeguard Lieutenant, Beach Lifeguard Sergeant, and Beach Lifeguard have the authority to enforce certain provisions of the Oceanside City Code, as listed in Exhibit "A" attached hereto and incorporated herein;

WHEREAS, Ordinance No. 87-42, conferred this authority on certain lifeguard positions that no longer exist, and does not include certain current lifeguard positions;

WHEREAS, Lifeguard personnel who are not listed in Ordinance No. 87-42 must utilize the formal complaint procedure to initiate criminal proceedings against suspected violators of these Oceanside City Code provisions;

WHEREAS, said formal complaint procedures are time consuming, create a substantial administrative burden, and hinder the speedy prosecution of suspected violators;

WHEREAS, Penal Code section 836.5 empowers this City Council to authorize such Lifeguard personnel to arrest a person without a warrant whenever such employee has reasonable cause to believe that the person to be arrested has committed an infraction or misdemeanor in such employee's presence which is a violation of an ordinance which such employee has the duty to enforce; and

WHEREAS, authorizing Lifeguard personnel to arrest suspected violators of certain City Code and ordinance provisions will facilitate the enforcement of the Oceanside City Code.

NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

SECTION 1. Ordinance No. 87-42 is hereby repealed in its entirety.

SECTION 2. The Beach Lifeguard Chief, the Beach Lifeguard Captain, the Beach Lifeguard Lieutenant, the Beach Lifeguard Sergeant and Beach Lifeguards of the City of

1 Oceanside are hereby authorized pursuant to Penal Code 836.5 to arrest any person without
2 warrant whenever said employee has reasonable cause to believe that the person to be arrested
3 has committed an infraction or misdemeanor in said employee's presence which is a violation
4 of any section of the Oceanside City Code or other ordinance of the City of Oceanside
5 specifically listed in Exhibit "A" attached hereto and incorporated herein by reference.

6 SECTION 3. No employee holding the position of Beach Lifeguard Chief, Beach
7 Lifeguard Captain, Beach Lifeguard Lieutenant, Beach Lifeguard Sergeant, or Beach Lifeguard
8 may exercise the power of arrest authorized pursuant to SECTION 2. hereinabove unless such
9 employee shall have first completed a course in training in the exercise of powers of arrest
10 which course shall meet the minimum standards prescribed by the Commission on Peace
11 Officer Standards and Training for Penal Code section 832(a) courses.

12 SECTION 4. The City Clerk of the City of Oceanside is hereby directed to publish this
13 ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15)
14 days after its passage in the North County Times, a newspaper of general circulation published
15 in the City of Oceanside.

16 SECTION 5. This ordinance shall take effect and be in force on the thirtieth (30th) day
17 from and after its final passage.

18 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
19 California, held on the ___ day of _____, 2008, and, thereafter,

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1 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
2 Oceanside California, held on the ____ day of _____, 2008, by the following vote:

3 AYES:

4 NAYS:

5 ABSENT:

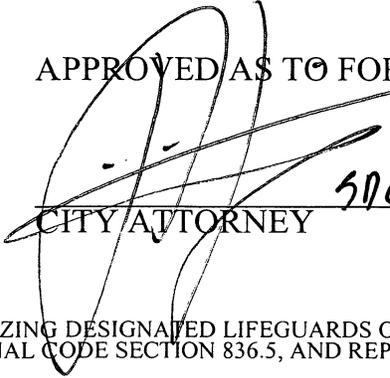
6 ABSTAIN:

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8 MAYOR OF THE CITY OF OCEANSIDE

9 ATTEST:

APPROVED AS TO FORM:

10 _____
11 CITY CLERK


CITY ATTORNEY *SOCA*

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13 AN ORDINANCE OF THE CITY OF OCEANSIDE AUTHORIZING DESIGNATED LIFEGUARDS OF THE CITY TO
14 EXERCISE THE POWERS OF ARREST PURSUANT TO PENAL CODE SECTION 836.5, AND REPEALING
ORDINANCE NO. 87-42

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EXHIBIT "A"

Oceanside City Code for Citation Authority

<u>Authority</u>	<u>Description of Violation</u>
Oceanside City Code:	
Section 4.15	Dogs on public beach.
Section 10A.3	Smoking prohibited
All sections of Chapter 18	Municipal Pier
All sections of Chapter 19	Oceanside Beaches
Section 20.20.2	Urinating or defecating in public
Section 20.21(a)(1)	Encampment on public property
Section 20.40	Drinking in public prohibited
Section 21.01	Prohibition of glass containers
All sections of Chapter 30A	Special events

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ORDINANCE NO. 87-42

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AUTHORIZING DESIGNATED LIFEGUARDS OF THE CITY TO EXERCISE THE POWERS OF ARREST PURSUANT TO PENAL CODE SECTION 836.5.

WHEREAS, certain City employees, namely the Aquatic Superintendent, Lifeguard Captain, and Lifeguard Lieutenant, are charged with the responsibility of enforcing numerous provisions of the Oceanside City Code, and other ordinances of the City of Oceanside as listed in Exhibit "A" attached hereto and incorporated herein; and

WHEREAS, said Lifeguard personnel must now utilize the formal complaint procedure to initiate criminal proceedings against suspected violators of these City Code and ordinance provisions; and

WHEREAS, said formal complaint procedures are time consuming, create a substantial administrative burden, and hinder the speedy prosecution of suspected violators; and

WHEREAS, Penal Code section 836.5 empowers this City Council to authorize such Lifeguard personnel to arrest a person without a warrant whenever such employee has reasonable cause to believe that the person to be arrested has committed an infraction or misdemeanor in such employee's presence which is a violation of an ordinance which such employee has the duty to enforce; and

WHEREAS, authorizing Lifeguard personnel to arrest suspected violators of certain City Code and ordinance provisions will facilitate the enforcement of the City Code and other ordinances.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Oceanside as follows:

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1 SECTION 1. The Aquatic Superintendent, the Lifeguard Captain, and the
 2 Lifeguard Lieutenant of the City of Oceanside are hereby authorized pursuant
 3 to Penal Code section 836.5 to arrest any person without a warrant whenever
 4 said employee has reasonable cause to believe that the person to be arrested
 5 has committed an infraction or misdemeanor in said employee's presence
 6 which is a violation of any section of the Oceanside City Code or other
 7 ordinance of the City of Oceanside specifically listed in Exhibit "A"
 8 attached hereto and incorporated herein by reference.

9 SECTION 2. No employee holding the position of Aquatic Superintendent,
 10 Lifeguard Captain, or Lifeguard Lieutenant may exercise the power of arrest
 11 authorized pursuant to SECTION 1. hereinabove unless such employee shall
 12 have first completed a course in training in the exercise of his powers of
 13 arrest which course shall meet the minimum standards prescribed by the
 14 Commission on Peace Officer Standards and Training for Penal Code
 15 section 832(a) courses.

16 SECTION 3. The City Clerk of the City of Oceanside is hereby directed
 17 to publish this ordinance once within fifteen (15) days of its passage in
 18 the Blade-Tribune, a newspaper of general circulation published in said
 19 City of Oceanside.

20 SECTION 4. This ordinance shall take effect and be in force on the
 21 thirtieth (30th) day from and after its final passage.

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SECTION 5. This ordinance shall not be codified.

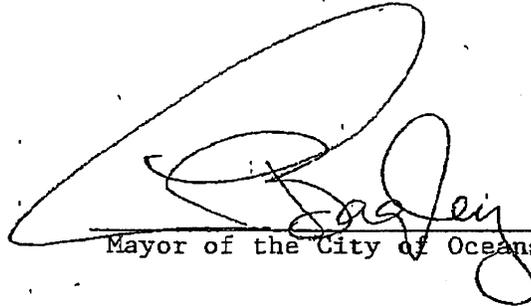
PASSED, ADOPTED, AND ORDERED PUBLISHED by the City Council of the City of Oceanside, California, this 18th day of November, 1987, by the following vote;

AYES: BAGLEY, CHAVEZ, GILBERT, RAMSEY, WILLIAMSON

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE


Mayor of the City of Oceanside

ATTEST:


City Clerk

APPROVED AS TO FORM & LEGALITY:

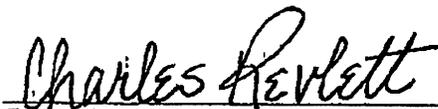

City Attorney

EXHIBIT "A"CITY PIER AND BEACH ORDINANCES FOR CITATION AUTHORITY

<u>AUTHORITY</u>	<u>DESCRIPTION OF VIOLATION</u>
OCEANSIDE CITY CODE SECTION 4.15	Dogs on public beach.
CHAPTER 18	Municipal Pier
CHAPTER 19	Oceanside Beaches
SECTION 20.35.1	City Park, closing hours; exceptions
SECTION 20.40	Drinking in public prohibited; definition
SECTION 21.01	Prohibition of glass beverage containers
SECTION 30A.2	Permit required (Special Events)