

AMENDMENT TO RESOLUTION 10-06-05

TEXT OF RESOLUTION

Camping Area for Homeless (Government Code Section 65302)

RESOLVED that the Conference of Delegates recommend that legislation be sponsored to modify Government Code Sections 65302 as follows:

- 1 § 65302
2 The general plan shall consist of a statement of development policies and shall include a
3 diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The
4 plan shall include the following elements:
5 (a) A land use element that designates the proposed general distribution and general location and
6 extent of the uses of the land for housing, emergency shelters, transitional housing, business,
7 industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic
8 beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other
9 categories of public and private uses of land. The land use element shall include a statement of the
10 standards of population density and building intensity recommended for the various districts and
11 other territory covered by the plan. The land use element shall identify areas covered by the plan
12 which are subject to flooding and shall be reviewed annually with respect to those areas. The land
13 use element shall also do both of the following:
14 (1) Designate in a land use category that provides for timber production those parcels of real
15 property zoned for timberland production pursuant to the California Timberland Productivity Act of
16 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5.
17 (2) Consider the impact of new growth on military readiness activities carried out on military bases,
18 installations, and operating and training areas, when proposing zoning ordinances or
19 designating land uses covered by the general plan for land, or other territory adjacent to military
20 facilities, or underlying designated military aviation routes and airspace.
21 (A) In determining the impact of new growth on military readiness activities, information provided
22 by military facilities shall be considered. Cities and counties shall address military impacts based on
23 information from the military and other sources.
24 (B) The following definitions govern this paragraph:
25 (i) "Military readiness activities" mean all of the following:
26 (I) Training, support, and operations that prepare the men and women of the military for combat.
27 (II) Operation, maintenance, and security of any military installation.
28 (III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or
29 suitability for combat use.
30 (ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any
31 ship, or other activity under the jurisdiction of the United States Department of Defense as
32 defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.
33 (b) A circulation element consisting of the general location and extent of existing and proposed
34 major thoroughfares, transportation routes, terminals, any military airports and ports, and other local
35 public utilities and facilities, all correlated with the land use element of the plan.
36 (c) A housing element as provided in Article 10.6 (commencing with Section 65580), including
37 emergency shelters and transitional housing.
38 (d) A conservation element for the conservation, development, and utilization of natural resources
39 including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries,
40 wildlife, minerals, and other natural resources. The conservation element shall consider the effect of
41 development within the jurisdiction, as described in the land use element, on natural resources
42 located on public lands, including military installations. That portion of the conservation element
43 including waters shall be developed in coordination with any countywide water agency and with all
44 district and city agencies that have developed, served, controlled or conserved water for any purpose
45 for the county or city for which the plan is prepared. Coordination shall include the discussion and
46 evaluation of any water supply and demand information described in Section 65352.5, if that

47 information has been submitted by the water agency to the city or county. The conservation element
48 may also cover the following:

- 49 (1) The reclamation of land and waters.
- 50 (2) Prevention and control of the pollution of streams and other waters.
- 51 (3) Regulation of the use of land in stream channels and other areas required for the
52 accomplishment of the conservation plan.
- 53 (4) Prevention, control, and correction of the erosion of soils, beaches, and shores.
- 54 (5) Protection of watersheds.
- 55 (6) The location, quantity and quality of the rock, sand and gravel resources.
- 56 (7) Flood control.

57 The conservation element shall be prepared and adopted no later than December 31, 1973.

58 (e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

59 (f) A noise element which shall identify and appraise noise problems in the community. The noise
60 element shall recognize the guidelines established by the Office of Noise Control in the State
61 Department of Health Services and shall analyze and quantify, to the extent practicable, as
62 determined by the legislative body, current and projected noise levels for all of the following sources:

- 63 (1) Highways and freeways.
- 64 (2) Primary arterials and major local streets.
- 65 (3) Passenger and freight on-line railroad operations and ground rapid transit systems.
- 66 (4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft
67 overflights, jet engine test stands, and all other ground facilities and maintenance functions related to
68 airport operation.
- 69 (5) Local industrial plants, including, but not limited to, railroad classification yards.
- 70 (6) Other ground stationary noise sources, including, but not limited to, military installations,
71 identified by local agencies as contributing to the community noise environment.

72 Noise contours shall be shown for all of these sources and stated in terms of community noise
73 equivalent level (CNEL) or day-night average level (Ldn). The noise contours shall be prepared on
74 the basis of noise monitoring or following generally accepted noise modeling techniques for the
75 various sources identified in paragraphs (1) to (6), inclusive.

76 The noise contours shall be used as a guide for establishing a pattern of land uses in the land use
77 element that minimizes the exposure of community residents to excessive noise.

78 The noise element shall include implementation measures and possible solutions that address
79 existing and foreseeable noise problems, if any. The adopted noise element shall serve as a
80 guideline for compliance with the state's noise insulation standards.

81 (g) A safety element for the protection of the community from any unreasonable risks associated
82 with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami,
83 seiche, and dam failure; slope instability leading to mudslides and
84 landslides; subsidence, liquefaction and other seismic hazards identified pursuant to Chapter 7.8
85 (commencing with Section 2690) of the Public Resources Code, and other geologic hazards known
86 to the legislative body; flooding; and wild land and urban fires. The safety element shall include
87 mapping of known seismic and other geologic hazards. It shall also address evacuation routes,
88 military installations, peakload water supply requirements, and minimum road
89 widths and clearances around structures, as those items relate to identified fire and geologic
90 hazards. Prior to the periodic review of its general plan and prior to preparing or revising its safety
91 element, each city and county shall consult the Division of Mines and Geology of the Department of
92 Conservation and the Office of Emergency Services for the purpose of including information known
93 by and available to the department and the office required by this
94 subdivision.

95 To the extent that a county's safety element is sufficiently detailed and contains appropriate
96 policies and programs for adoption by a city, a city may adopt that portion of the county's safety
97 element that pertains to the city's planning area in satisfaction of the requirement imposed by this
98 subdivision.

99 At least 45 days prior to adoption or amendment of the safety element, each county and city shall
100 submit to the Division of Mines and Geology of the Department of Conservation one copy of a draft
101 of the safety element or amendment and any technical studies used for developing the safety

102 element. The division may review drafts submitted to it to determine whether they incorporate known
103 seismic and other geologic hazard information, and report its findings to the
104 planning agency within 30 days of receipt of the draft of the safety element or amendment pursuant
105 to this subdivision. The legislative body shall consider the division's findings prior to final adoption of
106 the safety element or amendment unless the division's findings are not available within the above
107 prescribed time limits or unless the division has indicated to the city or county that the division will
108 not review the safety element. If the division's findings are not available within those prescribed time
109 limits, the legislative body may take the division's findings into consideration at the time it considers
110 future amendments to the safety element. Each county and
111 city shall provide the division with a copy of its adopted safety element or amendments. The division
112 may review adopted safety elements or amendments and report its findings. All findings made by
113 the division shall be advisory to the planning agency and legislative body.

(Proposed new language underlined; language to be deleted stricken.)

RESOLUTION 10-06-05

DIGEST

Land Use Planning: Adds non-recreational camping to the land use element of a city’s general plan.
Amends Government Code section 65302 to add “non-recreational camping” to the land use element in a city’s general plan.

**RESOLUTIONS COMMITTEE RECOMMENDATION
DISAPPROVE**

History:

This resolution is similar to 10-05-05.

Reasons:

This resolution amends Government Code section 65302 to add “non-recreational camping” to the land use element in a city’s general plan. This resolution should be disapproved because such areas would not attract the target population and the burden should not be placed on cities to establish unsightly and expensive alternative housing to that already required.

In 1980, the Legislature found that the attainment of decent housing was a public priority of the highest order. (Gov. Code, §65580, subd. (a).) In pursuit of this public policy, cities were mandated to develop housing plans that projected the needs and means for housing, including the homeless. (Gov. Code, §65583.) Currently, cities must designate areas in which traditional-construction homeless shelters can be constructed. (*Hoffmaster v. City of San Diego* (1997) 55 Cal.App.4th 1098.) This resolution would additionally require that cities designate non-recreational camping areas for the homeless. It would place too great a burden on a city’s resources to provide alternative types of housing for the homeless. In addition, there is no statistical evidence that homeless persons who do not desire the confined living of a traditional building would be willing to give up the freedom of the streets to live in a less permanent structure.

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- 8 public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public
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35 public utilities and facilities, all correlated with the land use element of the plan.

36 (c) A housing element as provided in Article 10.6 (commencing with Section 65580), including a
37 designated area for homeless individuals and families to camp.

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PROPONENT: Ventura County Bar Association

STATEMENT OF REASONS:

Existing Law: The existing law requires cities and counties to include low and moderate income housing in their general plans, but no requirement mandates an area be designated where homeless people can legally camp. Most cities and counties find themselves unable to comply with current general plan requirements for low income housing because of the growing demand for housing coupled with the growth of low-paying jobs, and the pressures of current real estate market conditions. Many individuals and families are forced to live in their cars or tents, because they cannot find housing. Those who are forced to live outside, or choose to do so for a variety of reasons, should have a place where they can legally camp without time limits or expensive recreation fees. Many local jurisdictions currently remove the

homeless population, by force or intimidation, directing them to neighboring jurisdictions. Unless each local city and county has a requirement to set aside an area where homeless can legally camp, no one jurisdiction will be able to provide a more humane way of treating the homeless without fear that it will trigger an increase in its homeless population by those fleeing more restrictive areas.

This Resolution: Would modify existing law by requiring cities and counties to incorporate into their general plans designated areas where the homeless can legally camp.

The Problem: Currently homeless people who live in their cars or create makeshift encampments are cited for misdemeanors and infractions related to illegal camping because they have no place where they can legally camp. Public campgrounds generally have a 15 day or similar time limit and often charge substantial fees for use of the recreational campground facilities. While affordable housing, transitional housing, and homeless shelters are all needed, for a substantial part of the homeless population, these are not viable options. Transitional housing and shelters often prohibit pets, which for many homeless suffering from isolation, depression, and mental disabilities, provide the only love and companionship in their lives. For others, a shelter setting can trigger paranoia making it difficult to sleep or function on a day-to-day basis.

The consequence for those cited for illegal camping is generally a fine, which the homeless cannot afford to pay. Many times these turn into failure to appear warrants, resulting in arrest, and release after several days in jail. The cost to society for arresting, prosecuting and incarcerating otherwise law-abiding people simply because they are homeless is far greater than the cost of setting aside an area for the homeless to legally camp. The human rights cost for criminalizing homelessness is impossible to measure.

IMPACT STATEMENT

This proposed resolution affects California Government Code Sections 65302 and 65583.

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