



Contra  
Costa  
County

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: June 16, 2015

Subject: Text Amendment to County Code Chapter 82-38 "Alcoholic Beverage Sales Commercial Activities"

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**RECOMMENDATION(S):**

1. OPEN the public hearing and receive public testimony on the proposed amendment to the Alcoholic Beverage Sales Commercial Activities Ordinance, Chapter 82-38 of the County Code, RECEIVE testimony; and
2. CLOSE the public hearing; and
3. FIND for purposes of compliance with the California Environmental Quality Act (CEQA), that the proposed action is not subject to CEQA, pursuant to CEQA Guidelines 1501(b)(3), and that it can be seen with certainty that there is no possibility that the proposed ordinance amendment will have a significant impact on the environment, since the proposal will only serve to clarify and make enforcement and administration of the Alcoholic Beverage Sales Commercial Activities Ordinance more efficient; and
4. ADOPT Ordinance No. 2015-10, which amends the Alcoholic Beverage Sales Commercial Activities Ordinance to restrict the sale of alcopops under certain conditions and establish new posting requirements for alcohol retail sales locations; and

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☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY  
ADMINISTRATOR

☒ RECOMMENDATION OF BOARD  
COMMITTEE

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Action of Board On: **06/16/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: June 16, 2015

Contact: Gary Kupp  
(925) 674-7799

David Twa, County Administrator and Clerk of the Board of  
Supervisors

By: , Deputy

cc:

5. ADOPT Resolution No. 2015/170, which approves Public Protection Committee and Planning Commission recommendations related to the Alcoholic Beverage Sales Commercial Activities Ordinance, and DIRECT staff to implement the recommendations in Resolution No. 2015/170 related to the ordinance; and

## RECOMMENDATION(S): (CONT'D)

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6. DIRECT staff to implement the recommendations of the Public Protection Committee and Planning Commission in Resolution No. 2015/170 related to the Alcoholic Beverage Sales Commercial Activities Ordinance; and

7. DIRECT the Department of Conservation and Development, Community Development Division to post a Notice of Exemption with the County Clerk.

## FISCAL IMPACT:

None. Administration and enforcement of the Deemed Approved Ordinance is funded by a \$400 annual fee that is paid by Deemed Approved establishments and collected by the office of the Tax Collector.

## BACKGROUND:

### **Project Background**

Through the efforts of the District 5 Supervisor, Federal D. Glover, it was brought to the attention of the Board of Supervisors that a type of alcoholic beverage product known as “alcopops” has been contributing to under-age drinking in the County. Alcopops are defined as flavored malt-beverage products that are sold in bright, colorful packaging with labels similar to those of non-alcoholic beverages such as sodas, teas, lemonades, fruit punches, energy drinks, and slushes; and therefore, they are attractive to minors. On June 3, 2014, the Board of Supervisors delegated to the Public Protection Committee (PPC) the task of reviewing the County Code, Chapter 82-38—Alcoholic Beverage Sales Commercial Activities Ordinance, or the “Deemed Approved Ordinance”, (see Exhibit #1) in order to determine what changes could be made to the ordinance in order to better regulate the sale of alcopops by liquor stores and other outlets. Because the Deemed Approved Ordinance is administered and enforced by the Department of Conservation and Development (DCD), the PPC delegated the task to the Department. Subsequently, DCD staff developed a 4-phase work plan (see Exhibit #2) to examine the overall adequacy of the Deemed Approved Ordinance and to explore possible amendments that could be made to specifically address the sale of alcopops in unincorporated areas of the County.

Accordingly, DCD, in cooperation with Health Services-Public Health Division staff, developed proposed amendments to the Deemed Approved Ordinance that the Public Protection Committee could recommend to the Board of Supervisors in order to help affected communities in a real and meaningful way. DCD staff presented their proposed findings and recommendations to the PPC at its meeting on October 27, 2014 (see Exhibit #3). Subsequently, on December 16, 2014, the Board of Supervisors approved the findings and the proposed ordinance changes, and referred them to the Planning Commission for consideration (see Exhibit #4). The proposed policy revisions and

ordinance amendment were presented to the Planning Commission for review and approval on March 24, 2015 (see Exhibit #5) and were approved on consent with a recommendation by the Commission for the Board's ultimate approval.

### **Proposed Ordinance Changes**

The proposed amendment would add language to Section 82-38.814(d)(9) that would authorize the County to prohibit the sale of alcopops at any establishment not in compliance with the Deemed Approved Ordinance. It would also add text to Section 82-38.810 regarding the posting requirements of the Deemed Approved Performance Standards notice and requiring the posted performance standards notice to be a 11"x17" in size and the font size on the notice to be 20-point type. County Counsel has reviewed the proposed revisions to the Deemed Approved Ordinance and has provided the proposed revised ordinance, which the Planning Commission has recommended for approval (see Exhibit #6). A redlined version highlighting the specific changes to the ordinances is also attached (see Exhibit #7).

Along with the proposed code changes, various implementation procedures and strategies are also being recommended in Resolution No. 2015/170 order to better coordinate the efforts of the Department of Conservation and Development with other County departments and agencies for implementation and enforcement of the Deemed Approved Ordinance. Such policy revisions would include establishing protocols with the Office of the Sheriff, the Tax Collector, and the Health Services Department for improved information and data sharing concerning Deemed Approved alcohol establishments in the unincorporated areas of Contra Costa County.

### **CONSEQUENCE OF NEGATIVE ACTION:**

The recommendations of the Public Protection Committee and the Planning Commission would not be accepted and the proposed policy revisions and ordinance amendment would not be enacted.

### **CHILDREN'S IMPACT STATEMENT:**

The board order is for an amendment to the Alcoholic Beverage Sales Commercial Activities Ordinance to restrict the sale of alcopops, under certain conditions, in order to prevent access by children under 21 years of age. The recommended action, therefore, promotes the following two of the five targeted outcomes: (2) Children and Youth Healthy and Preparing for Productive Adulthood; and (5) Communities that are Safe and Provide a High Quality of Life for Children and Families.

### **CLERK'S ADDENDUM**

***CLOSED the hearing; FOUND for purposes of compliance with the California Environmental Quality Act (CEQA), that the proposed action is not subject to the California Environmental Quality Act (CEQA); ADOPTED Ordinance No. 2015-10, which amends the Alcoholic Beverage Sales Commercial Activities Ordinance to restrict the sale of alcopops under certain conditions and establish new posting***

*requirements for alcohol retail sales locations, as amended today in regard to the font size on signage; ADOPTED Resolution No. 2015/170, which approves Public Protection Committee and Planning Commission recommendations related to the Alcoholic Beverage Sales Commercial Activities Ordinance; DIRECTED staff to implement the recommendations of the Public Protection Committee and Planning Commission in Resolution No. 2015/170 related to the Alcoholic Beverage Sales Commercial Activities Ordinance; and DIRECTED the Department of Conservation and Development, Community Development Division to post a Notice of Exemption with the County Clerk.*

#### ATTACHMENTS

Resolution No. 2015/170

Exhibit #1: Deemed Approved Ordinance

Exhibit #2: June 23, 2014 Work Plan for PPC

Exhibit #3: October 27, 2014 Recommendations to PPC

Exhibit #4: December 16, 2014 Board Order

Exhibit #5: March 24, 2015 Planning Commission Staff Report

Exhibit #6: Proposed Ordinance No. 2015-10

Exhibit #7: Redline Version Ordinance No. 2015-10

Exhibit #8: Map Locations of Deemed Approved Establishments

Staff Presentation

CPC Resolution No. 11-2015