ORDINANCE NO. 2015-10
ALCOHOLIC BEVERAGE SALES COMMERCIAL ACTIVITIES

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance amends Ordinance Code Chapter 82-38 to add "alcopops" to the list of alcoholic beverages whose sales may be restricted if nuisance conditions exist at retail locations where alcoholic beverages are sold, and to establish new posting requirements for these retail locations.

SECTION II. Section 82-38.814 of the County Ordinance Code is amended to read:

82-38.814 Violations of performance standards, conditions of approval for continued deemed approved status following violation.

(a) If the county receives a complaint from the public, sheriff, or any other interested party that a deemed approved activity is not complying with the performance standards set forth in Section 82-38.808, the administrative hearing officer may review the deemed approved status of the deemed approved activity in question at a public hearing. Notification of the public hearing will be made in accordance with Section 82-38.1004 and must include notification that the officer will consider the deemed approved status of the deemed approved activity.

(b) The purpose of the public hearing is to receive testimony on whether the operating methods of the deemed approved activity are causing negative impacts in the surrounding area. At the public hearing, the administrative hearing officer will determine whether the deemed approved activity conforms to the deemed approved performance standards set forth in Section 82-38.808. At the conclusion of the hearing, the administrative hearing officer may continue the deemed approved status for the activity in question or may require changes or impose reasonable conditions of approval to retain deemed approved status. The officer's decision will be based on information in staff documents and testimony from the business owner and all other interested parties. The deemed approved activity must comply with these conditions. The determination of the administrative hearing officer becomes final thirty calendar days after the date of decision unless appealed to the board of supervisors under Section 82-38.1002

(c) The administrative hearing officer may impose conditions of approval relating to one or more of the following:

(1) entertainment uses, activities, or amusement devices on the premises;

(2) separation, monitoring, or design of area devoted to alcohol sales;

(3) security measures;

(4) lighting, litter, trash receptacles, graffiti or nuisance abatement, or other similar requirements; or

(5) maintenance.

(d) Specific conditions of approval that may be imposed include but are not limited to the following:

(1) Soundwalls. If the alcoholic beverage sales commercial activity abuts residential uses and is allowed in the involved zoning district, a soundwall may be required between the activity and the abutting residential uses. The soundwall must be no higher than six feet and must not obstruct the view of the building and parking areas from the street. Vegetation may be required to be planted along the soundwall and be of a type that will cover the soundwall surface within two years.

(2) Graffiti Removal. The removal of all graffiti from the walls, fences, pavement or buildings within seventy-two hours of its appearance on the property may be required.

(3) Exterior Lighting. Exterior lighting containing high pressure sodium or equivalent type, with an illumination intensity of between one and four foot-candles, may be required. The lighting may be required to be lit during all hours of darkness. Any required lighting must be directed and shielded so as not to glare onto adjoining residential properties and must have a housing to protect against breakage. Any required lighting must illuminated the adjacent public sidewalks and all parking lots under the business establishment's control in a manner that allows law enforcement personnel to identify persons standing in those areas. Any broken or burned out lights may be required to be replaced within seventy-two hours.

(4) Trash Receptacles. Permanent, non-flammable trash receptacles, sixty gallons or less in size, may be required to be located at convenient locations, appropriately screened from view, outside the establishment and in the establishment's parking area (if any). The operators of the business may be required to remove on a daily basis, or more frequently if needed to maintain a litter-free environment, all trash from these receptacles and from the sidewalk adjacent to the establishment. The operators of the business also may be required to remove, at least three times per week, all trash originating from its establishment deposited on public property

within four hundred feet of any boundary of its premises. Security may also be required in a manner similar to that required under Section 88-16.010 (take-out food establishment). All trash receptacles of any size may be required to be appropriately screened from view.

(5) Pay Telephones. Pay telephones on the site of the establishment may either be: (a) prohibited; or (b) required to be of the type that only allow outgoing calls and be located in a visible and well-lighted location.

(6) Interior View. In establishments with glass storefronts, an unobstructed interior view from the street of the cash register area may be required and no more than thirty-three percent of the square footage of the windows and transparent doors of the premises may be allowed to bear advertising or signs of any sort. All advertising, signage and products may be required to be placed and maintained to ensure that law enforcement personnel have a clear and unobstructed view of the establishment's interior.

(7) Program. A "complaint response-community relations" program established and maintained by the deemed approved activity may be required. The program may include the following:

(a) Posting at the entry of the establishment and providing to any requesting individual the telephone number for the area commander of the local law enforcement substation;

(b) Coordinating with the local law enforcement agency to monitor community complaints about the establishment's activities;

(c) Having a representative of the establishment meet with neighbors or neighborhood association on a regular basis and at their request, attempt to resolve any neighborhood complaints regarding the establishment.

(8) Activities. If appropriate, the following activities may be prohibited on the premises: pool or billiard tables, football or pinball games, arcade style video or electronic games, or coin operated amusements devices.

(9) Prohibited Products. To discourage nuisance activities, an off-sale alcohol outlet may be prohibited from selling one or more of the following products:

(a) Wine or distilled spirits in containers of less than seven hundred fifty milliliters.

(b) Malt beverage products, including flavored malt beverage products, with alcohol content greater than five and one-half percent by volume. A "flavored malt beverage" product is a malt beverage product to which is added an alcoholic or other flavoring ingredient and is labeled or packaged in a manner that is similar to labeling or packaging used for non-alcoholic beverages such as sodas, teas, lemonades, fruit punches, energy drinks and slushes. Youth-oriented flavored malt beverage products are sold in bright, colorful packaging and are commonly known as "alcopops."

(c) Wine with an alcoholic content greater than fourteen percent by volume unless in corked bottles and aged at least two years.

(d) Single containers of beer or malt liquor.

(e) Containers of beer or malt liquor not in their original factory packages of six-packs or greater.

(f) Containers of beer or malt liquor larger than thirty-nine ounces.

(g) Distilled spirits in bottles or containers smaller than three hundred seventy-five milliliters.

(h) Cooler products, either wine- or malt-beverage-based, in less than four-pack quantities.

(i) Alcohol-infused ice cream or ice pops with alcohol content greater than 0.5 percent by volume.

(10) Chilled Alcoholic Beverages. An off-sale alcohol outlet may be prohibited from maintaining refrigerated or otherwise chilled alcoholic beverages on the premises.

(11) Hours of Operation. In an off-sale alcohol outlet, the sale of alcoholic beverages may be restricted to certain hours of each day of the week unless limited further by the state of California Department of Alcoholic Beverage Control.

(12) Cups. In off-sale alcohol outlets, the sale or distribution to the customer of paper or plastic cups in quantities less than their usual and customary packaging may be prohibited.

(13) Signs. The following signs may be required to be prominently posted in a readily visible manner in English, Spanish, and the predominant language of the patrons:

(a) "California State Law prohibits the sale of alcoholic beverages to persons under twenty-one years of age";

(b) "No Loitering or Public Drinking"; and

(c) "It is illegal to possess an open container of alcohol in the vicinity of this establishment".

(14) Presentation of Documents. A copy of the conditions of approval and the California Department of Alcoholic Beverage Control license may be required to be kept on the premises and presented to any law enforcement officer or authorized county official upon request.

(15) Mitigating Alcohol-Related Problems. The establishment may be required to operate in a manner appropriate with mitigating alcohol-related problems that negatively impact those individuals living or working in the neighborhood, including but not limited to: sales to minors, the congregation of individuals, violence on or near the premises, drunkenness, public urination, solicitation, drug-dealing, loud noise, and litter.

(16) Signage. The total surface of signage pertaining to or referencing alcoholic sales or beverages that is visible from the public right-of-way may be required to not exceed six hundred thirty square inches.

(17) Employee Training. All sales clerks in on-sale alcohol outlets and off-sale alcohol outlets may be required, within ninety days of the beginning of employment, to complete an approved course in "responsible beverage service training". The establishment may be required to provide evidence of the employee's completion of this training to county authorities within ten days following completion of training.

(18) Drug Paraphernalia. An off-sale alcohol outlet may be prohibited from selling drug paraphernalia products as defined in Health and Safety Code Sections 11014.5 and 11364.5. "Drug paraphernalia" means all equipment, products and materials of any kind that are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the California Uniform Controlled Substances Act (commencing with California Health and Safety Code Section 11000).

(19) Loitering. The establishment's operators or employees may be required to discourage loiterers and to ask persons loitering longer than fifteen minutes to leave the area and contact local law enforcement officials for enforcement of applicable trespassing and loitering laws if persons requested to leave fail to do so.

(20) Security Cameras. At least two twenty-four hour time-lapse security cameras may be required to be installed and properly maintained on the exterior of the building at locations recommended by the sheriff's department. All criminal and suspicious activities recorded on this surveillance equipment must be reported to local law enforcement. To the extent allowed by law, the establishment's operators may be required to provide any tapes or other recording media from the security cameras to the sheriff.

(21) Prohibited Vegetation. No exterior vegetation may be planted or maintained that could be used as a hiding place for persons on the premises. Exterior vegetation may be planted and maintained in a manner that minimizes its use as a hiding place. (Ords. 2015-10 §2, 2002-33 § 2).

SECTION III. Section 82-38.810 of the County Ordinance Code is amended to read:

82-38.810 Posting. The owner of each Deemed Approved Activity must post the performance standards for public review in a conspicuous and unobstructed place visible from the entrance of the establishment and in a place clearly visible to the buyer from the cash register. The posted performance standards must be displayed on a sign or notice 11 inches by 17 inches in size with lettering that is 20-point type or larger type. (Ords. 2015-10 §3, 2002-33 §2).

SECTION IV. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of supervisors voting for or against it in the Contra Costa Times, a newspaper published in this County.

PASSED on ___June 16, 2015_____, by the following vote:

AYES: Gioia, Andersen, Piepho, Mitchoff
NOES: None
ABSENT: Glover
ABSTAIN: None

ATTEST: DAVID J. TWA,
Clerk of the Board of Supervisors
and County Administrator

__John Gioia_____
Board Chair

By: ___June McHuen, Deputy Clerk_____

[SEAL]

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Deputy

[SEAL]

NFD:
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