



# Agenda

# PUBLIC PROTECTION COMMITTEE

February 6, 2012

11:00 A.M.

651 Pine Street, Room 101, Martinez

Supervisor Gayle B. Uilkema, Chair

Supervisor Federal D. Glover, Vice Chair

## Agenda Items:

Items may be taken out of order based on the business of the day  
and preference of the Committee

1. Introductions
2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes)
3. CONSIDER draft ordinance prepared by the County Counsel pursuant to a request from the District Attorney to enact a daytime curfew for minors in the county unincorporated area

*The Public Protection Committee will provide reasonable accommodations for persons with disabilities planning to attend Public Protection Committee meetings. Contact the staff person listed below at least 72 hours before the meeting.*

*Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to a majority of members of the Public Protection Committee less than 96 hours prior to that meeting are available for public inspection at 651 Pine Street, 10th floor, during normal business hours.*

*Public comment may be submitted via electronic mail on agenda items at least one full work day prior to the published meeting time.*

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## DISTRIBUTION

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Terry Speiker, Chief Asst. County Administrator  
Sharon Anderson, County Counsel  
Lisa Driscoll, County Finance Director  
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Timothy Ewell, Senior Deputy County Administrator—Municipal Services  
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Mike Casten, Undersheriff  
Daryl Louder, Chief, Contra Costa County Fire Protection District  
Hugh Henderson, Chief, East Contra Costa Fire Protection District  
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## Glossary of Acronyms, Abbreviations, and other Terms (in alphabetical order):

Contra Costa County has a policy of making limited use of acronyms, abbreviations, and industry-specific language in its Board of Supervisors meetings and written materials. Following is a list of commonly used language that may appear in oral presentations and written materials associated with Board meetings:

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<b>AB</b>	Assembly Bill	HCD	(State Dept of) Housing & Community Development
ABAG	Association of Bay Area Governments	HHS	Department of Health and Human Services
ACA	Assembly Constitutional Amendment	HIPAA	Health Insurance Portability and Accountability Act
ADA	Americans with Disabilities Act of 1990	HIV	Human Immunodeficiency Syndrome
AFSCME	American Federation of State County and Municipal Employees	HOV	High Occupancy Vehicle
AICP	American Institute of Certified Planners	HR	Human Resources
AIDS	Acquired Immunodeficiency Syndrome	HUD	United States Department of Housing and Urban Development
ALUC	Airport Land Use Commission	Inc.	Incorporated
AOD	Alcohol and Other Drugs	IOC	Internal Operations Committee
BAAQMD	Bay Area Air Quality Management District	ISO	Industrial Safety Ordinance
BART	Bay Area Rapid Transit District	JPA	Joint (exercise of) Powers Authority or Agreement
BCDC	Bay Conservation & Development Commission	Lamorinda	Lafayette-Moraga-Orinda Area
BGO	Better Government Ordinance	LAFCo	Local Agency Formation Commission
BOS	Board of Supervisors	LLC	Limited Liability Company
CALTRANS	California Department of Transportation	LLP	Limited Liability Partnership
CalWIN	California Works Information Network	Local 1	Public Employees Union Local 1
CalWORKS	California Work Opportunity and Responsibility to Kids	LVN	Licensed Vocational Nurse
CAER	Community Awareness Emergency Response	MAC	Municipal Advisory Council
CAO	County Administrative Officer or Office	MBE	Minority Business Enterprise
CCHP	Contra Costa Health Plan	M.D.	Medical Doctor
CCTA	Contra Costa Transportation Authority	M.F.T.	Marriage and Family Therapist
CDBG	Community Development Block Grant	MIS	Management Information System
CEQA	California Environmental Quality Act	MOE	Maintenance of Effort
CIO	Chief Information Officer	MOU	Memorandum of Understanding
COLA	Cost of living adjustment	MTC	Metropolitan Transportation Commission
ConFire	Contra Costa Consolidated Fire District	NACo	National Association of Counties
CPA	Certified Public Accountant	OB-GYN	Obstetrics and Gynecology
CPI	Consumer Price Index	O.D.	Doctor of Optometry
CSA	County Service Area	OES-EOC	Office of Emergency Services-Emergency Operations Center
CSAC	California State Association of Counties	OSHA	Occupational Safety and Health Administration
CTC	California Transportation Commission	Psy.D.	Doctor of Psychology
dba	doing business as	RDA	Redevelopment Agency
EBMUD	East Bay Municipal Utility District	RFI	Request For Information
EIR	Environmental Impact Report	RFP	Request For Proposal
EIS	Environmental Impact Statement	RFQ	Request For Qualifications
EMCC	Emergency Medical Care Committee	RN	Registered Nurse
EMS	Emergency Medical Services	SB	Senate Bill
EPSDT	State Early Periodic Screening, Diagnosis and treatment Program (Mental Health)	SBE	Small Business Enterprise
et al.	et ali (and others)	SWAT	Southwest Area Transportation Committee
FAA	Federal Aviation Administration	TRANSPAC	Transportation Partnership & Cooperation (Central)
FEMA	Federal Emergency Management Agency	TRANSPLAN	Transportation Planning Committee (East County)
F&HS	Family and Human Services Committee	TRE or TTE	Trustee
First 5	First Five Children and Families Commission (Proposition 10)	TWIC	Transportation, Water and Infrastructure Committee
FTE	Full Time Equivalent	VA	Department of Veterans Affairs
FY	Fiscal Year	vs.	versus (against)
GHAD	Geologic Hazard Abatement District	WAN	Wide Area Network
GIS	Geographic Information System	WBE	Women Business Enterprise
		WCCTAC	West Contra Costa Transportation Advisory Committee

## 2012 PUBLIC PROTECTION COMMITTEE

### CONSIDER APPROVING A DAYTIME CURFEW ORDINANCE TO REDUCE TRUANCY IN THE COUNTY UNINCORPORATED AREA

#### Background

The PPC took this item up as a referral at the request of the District Attorney, who suggested under Public Comment at the April 4, 2011 PPC meeting that the Committee consider enacting a daytime curfew ordinance to reduce truancy.

PPC received an in-depth report on May 2, 2011 and decided to pursue an ordinance for a daytime curfew for minors. Within two months of the May 2 PPC meeting, the City of Concord enacted a daytime curfew ordinance, on which today's draft ordinance is to a great extent modeled. The PPC studied Concord's ordinance in October and November 2011 and directed County Counsel to draft a county ordinance.

Following are highlights of the proposed "Curfew for Minors Ordinance of Contra Costa County", prepared by County Counsel:

- Defines daytime curfew hours as the period of the minor's regular scheduled school hours when school is in session, and nighttime curfew hours as the hours between 10 p.m. and 5:00 a.m. Sunday through Thursday and midnight and 5:00 a.m. on Saturday or Sunday for minors (persons under the age of 18 with certain exceptions).
- Generally provides (with some exceptions) that any minor who is supposed to be in school and is found present in or about a public place during daytime curfew hours is guilty of an infraction, that any minor found present in or about a public place during nighttime curfew hours is guilty of an infraction, and any parent who knowingly permits a minor to violate the curfew is also guilty of an infraction.
- Provides that a business or other establishment that knowingly permits a minor to violate the curfew is guilty of an infraction unless the operator asks the minor to leave and reports the minor to the Sheriff if he/she refuses to leave.
- Would permit officers to detain truants and, on first offense, issue a warning citation to their parents, who would have to sign and return the notification with an explanation, if there is one.
- Upon subsequent violations during the same 12-month period, the minor will be fined up to \$100 for the first subsequent offense, up to \$200 for the second offense, and up to \$500 for any additional violations. Parents and

business operators who knowingly permit minors to violate the curfew can also be cited and fine under the same schedule.

- States that officers can transport the truants back to school once they are cited.
- Provides a list of reasonable exceptions.
- Adds language that observes First Amendment rights and clarifies language in the original nighttime ordinance

Staff has also considered the possibility of ordering educational classes as a sanction for a curfew violation in lieu of or in addition to monetary sanctions. Such classes might be provided under a pilot program currently under development and discussion by the County's Justice Partners that would target high risk youth through on-school site presentations at county middle schools.

Staff from the District Attorney's and County Counsel's Office will be in attendance to answer any questions of the Committee.

ORDINANCE NO. 2012-\_\_\_ **DRAFT**  
CURFEW FOR MINORS

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 Chapter 54-2 of the County Ordinance Code to add a daytime curfew for minors to the existing nighttime curfew. This ordinance also revises the Chapter title to “Curfew for Minors”.

**SECTION II.** Chapter 54-2 is amended to read:

**Chapter 54-2**  
**CURFEW FOR MINORS**

**54-2.002 Title.** This chapter is known as the Curfew for Minors Ordinance of Contra Costa County. (Ords. 2012-\_\_ § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

**54-2.004 Purpose.**

(a) Contra Costa County has a compelling interest in reducing the rate of juvenile crime and victimization. Minors are particularly vulnerable to violence and pressure to participate in criminal activity due to their limited ability to make informed and mature decisions. Enactment and enforcement of a daytime and nighttime juvenile curfew reduces the amount of crime by and against juveniles in the County (especially violent crime committed by and perpetrated against juveniles) and protects juveniles from harm.

(b) A daytime curfew furthers the County’s compelling interest in prohibiting daytime presence in public places by those subject to compulsory education. State law requires all persons between the ages of 6 and 18 to attend school. The community as a whole suffers when a minor student is not attending school, as truancy often leads to vandalism, petty theft, daytime burglaries, damage to public property, and other criminal activity.

(c) A daytime and nighttime curfew promotes the public health, safety, and general welfare during late night and school hours.

(d) This chapter is intended to assist with the policing of public places during specified daytime and nighttime hours in order to prevent crimes by and against minors during those hours. It is not intended to interfere with or supersede the enforcement of state laws regulating education or truancy or with any local school districts’ truancy programs. Rather, this chapter is intended to provide the County with an additional tool to protect youth and prevent crime. (Ords. 2012-\_\_ § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

**54-2.006 Definitions.**

For purposes of this chapter, the following words and phrases have the following meanings:

- (a) “Daytime curfew hours” means the period of a minor’s regular scheduled school hours when the minor’s school is in session.
  
- (b) “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action. “Emergency” includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
  
- (c) “Errand” means a trip to carry a message or perform a lawful task.
  
- (d) “Establishment” means any privately-owned place of business operated for a profit to which the public is invited.
  
- (e) “Guardian” means any of the following:
  - (1) A person who, under court order, is the guardian of a minor.
  - (2) A public or private agency with whom a minor has been placed by a court.
  - (3) A person who is at least 18 years of age and is authorized by a minor’s parent or guardian to have the care and custody of that minor.
  
- (f) “Minor” means any person under 18 years of age. “Minor” does not include a person who is:
  - (1) On active duty with the armed forces of the United States;
  - (2) Validly married, whether or not the marriage has been dissolved; or
  - (3) Otherwise emancipated under state or federal law.
  
- (g) “Nighttime curfew hours” means:
  - (1) On any Sunday, Monday, Tuesday, Wednesday, or Thursday, the hours between 10:00 p.m. of that day and 5:00 a.m. of the following day.
  - (2) On any Saturday or Sunday, the hours between 12:01 a.m. and 5:00 a.m.
  
- (h) “Operator” means any individual, company, firm, association, trust, partnership, corporation, limited liability company or other entity, however organized, operating, managing, conducting or carrying on any establishment, including, but not limited to its owners, employees, partners, members, or officers.
  
- (i) “Parent” means a person who is a natural parent, adoptive parent, legal parent, or step-parent of a minor.
  
- (j) “Public place” means any place to which the public has access, including, but not limited to, streets, sidewalks, parks, recreational areas, public grounds, public buildings, movie theaters, restaurants, shops, parking lots, and the common areas of the following: schools (except during

regular school hours), office buildings, transportation facilities, and apartments.

(k) “Responsible Adult” means a person at least 18 years of age who is authorized by a minor’s parent or guardian to have the care and custody of that minor. (Ords. 2012-\_\_ § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

**54-2.008 Violation by Minor.**

(a) Nighttime curfew restriction: A minor may not be present in, about, or upon any public place during nighttime curfew hours.

(b) Daytime curfew restriction: A minor who is subject to compulsory education or to compulsory continuing education may not be present in, about, or on any public place during daytime curfew hours. (Ords. 2012-\_\_ § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

**54-2.010 Violation by Parent or Guardian.**

A parent or guardian may not knowingly allow or permit a minor to violate any curfew restriction of this chapter. (Ords. 2012-\_\_ § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

**54-2.012 Violation by Operator of an Establishment.**

An operator of an establishment may not knowingly allow a minor to remain in, on or about the establishment’s premises during nighttime curfew hours, except that it is not a violation of this section if the operator promptly notifies the sheriff’s office that a minor is present at the establishment during nighttime curfew hours and that the minor refused to leave after being asked to leave the establishment. (Ords. 2012-\_\_ § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

**54-2.014 Exceptions.**

(a) The daytime and nighttime curfew restrictions of this chapter do not apply if the minor is:

- (1) Exercising his or her First Amendment rights protected by the United States or California Constitutions, including the free exercise of religion, freedom of speech, and the right of assembly; or going to or from these activities without any detour or stop.
- (2) Engaged in legal employment; or going to or from the place of employment without any detour or stop. This exception also applies if the minor is in a public place during curfew hours in the course of his or her employment, provided the minor carries a written statement from the employer attesting to the place and hours of employment.
- (3) Accompanied by his or her parent, guardian, or responsible adult.
- (4) On an errand directed by his or her parent or guardian, or by his or her spouse who

is 18 years of age or older.

- (5) Attending an official school, religious or other cultural, educational or recreational activity, event, or function which is supervised by adults and which is organized, arranged or sponsored by the County, a religious or civic organization, or another similar entity that is taking responsibility for the minor; or going to or from that activity, event, or function without any detour or stop.
- (6) Traveling interstate.
- (7) Involved in an emergency.
- (8) Receiving medical treatment or care, seeking medical assistance; or going to or from place of medical treatment or care without any detour or stop.
- (9) Lawfully engaged in a business, trade, profession, work study, occupation or employment-related activity; or going to or from that activity without any detour or stop.
- (10) Attending or going directly to or from an event, appointment, or activity that is directly related to any medical condition of a parent, guardian or spouse who is 18 years of age or older.

(b) The nighttime curfew restrictions of this chapter also do not apply if the minor is:

- (1) Coming directly home from a public meeting or a place of public entertainment, such as a movie, play, concert, or sporting event.
- (2) On the sidewalk or right-of-way abutting the minor's residence or the residence of the minor's next-door neighbor, so long as any neighbor did not complain to the sheriff's department about that minor's presence.

(c) The daytime curfew restrictions of this chapter also do not apply if the minor is:

- (1) Authorized to be absent from his or her school pursuant to applicable school rules, California Education Code Section 48205, or any applicable state or federal law.
- (2) Receiving home or private school instruction pursuant to California Education Code Section 48222.
- (3) In possession of a valid, school issued, off-campus permit that authorizes the minor to leave the school campus.

- (4) Receiving instruction by a qualified tutor pursuant to Education Code Section 48224.
- (5) Exempt or excluded from compulsory education or compulsory continuation education, as set forth in the California Education Code.
- (6) Not a resident of the County and in possession of a valid passport, visitor's visa, or other form of identification establishing that the minor is temporarily visiting within the County. (Ords. 2012-\_\_ § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

**54-2.016. Enforcement.**

(a) Before taking any enforcement action under this section, a sheriff's deputy will ask the apparent offender's age and reason for being in the public place or on the premises of the establishment during curfew hours. The deputy will not issue a warning or citation under this section unless the deputy reasonably believes that an offense has occurred and that, based on any responses and other circumstances, no exception under section 54-2.014 applies.

(b) Upon a first violation of any curfew restriction in this chapter, a written warning will be issued to the person violating this chapter. A written warning will also be mailed to the minor's parents or legal guardian stating that the minor was in violation of curfew regulations and that a subsequent violation of any curfew restriction in this chapter within 12 months after the first violation will constitute an infraction. This notice will require the parents or legal guardian to sign and return the notification and include space for the explanation of any circumstances relevant to any applicable exception specified in section 54-2.014.

(c) Each subsequent violation of any curfew restriction in this chapter within 12 months after the first violation is an infraction.

(d) This section shall not be construed to abridge the authority of a law enforcement officer to assume temporary custody, during school hours, of any minor subject to compulsory full time education or compulsory continuing education who is found away from his or her home and who is absent from school without a valid excuse, and return the minor to the minor's school of registration, pursuant to California Education Code Sections 48264 and 48265.

(e) This section shall not be construed to limit the authority of the court to render any disposition authorized by Welfare and Institutions Code Section 258, subdivision (a), or any other provision of the Juvenile Court Law, Welfare and Institutions Code Section 200, et seq. (Ords. 2012-\_\_ § 2, 75-44, prior code: 1577, 956, 181, 153, 69.)

**SECTION III.** Section 14-8.008 of the County Ordinance Code is amended to read:

**14-8.008 Infraction arrest and citation.**

- (a) The following officers, or their designated subordinates, shall have and are hereby vested with the authority to arrest any person who violates the following provisions of this code and other codes as indicated, punishable as infractions:
- (1) Director of Health Services: Division 413, Division 445, Chapters 414-4, 414-6, 416-14, 418-2, 418-6, 418-12, 420-2, 420-6, 450-6, and Labor Code Section 6404.5;
  - (2) Director of Building Inspection: Title 7;
  - (3) Director of Community Development: Title 8;
  - (4) Director of Public Works: Divisions 1002, 1010, 1014, 1106 and 1110;
  - (5) Sheriff: Division, 54, Chapter 54-2, and Divisions 410, 1110.
- (b) The above-listed officers, or their designated subordinates, may issue citations for infraction violations of the above-listed code provisions.
- (c) The county administrator may by written order issue regulations to provide for administration, procedures and policy direction for this section. (Ords. 2012-\_\_ § 3, 2006-66 § 8, 2003-01 § 5, 2002-48 § 18, 2001-3 § 1, 98-31 § 1, 98-22 § 2, 96-21 § 2, 95-36 § 1, 90-122 § 2, 86-80 § 2; Penal Code §§ 19.7, 836.5, and 853.6; Labor Code § 6404.5.)

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

PASSED on \_\_\_\_\_, by the following vote:

AYES:  
 NOES:  
 ABSENT:  
 ABSTAIN:

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

\_\_\_\_\_  
 Board Chair

RHS: