SANTA CRUZ COUNTY
BOARD OF SUPERVISORS INDEX SHEET

Creation Date: 6/17/09

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INVENUM: 62774

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Index: --Letter of County Counsel, dated June 16, 2009
--Ordinance

Item: 72. CONSIDERED Ordinance amending Chapter 8.34.030 of the Santa Cruz County Code regarding open containers in public places;
approved "in concept" ordinance amending Section 8.34.030 of the Santa Cruz County Code relating to an enhanced penalty for the possession of an open container of alcohol, with the following correction: add the word "Davenport" between the words Oak and beach in Section A. 3 to read: "Live Oak and Davenport beach violation between ten p.m. and six a.m." to return on August 4, 2009 for final adoption

COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA

AT THE BOARD OF SUPERVISORS MEETING
On the Date of June 23,2009

REGULAR AGENDA Item No. 72

CONSIDERED Ordinance amending Chapter 8.34.030 of the Santa Cruz County Code regarding open containers in public places;

Upon the motion of Supervisor Leopold, duly Seconded by Supervisor Stone, the Board, by unanimous vote, approved "in concept" ordinance amending Section 8.34.030 of the Santa Cruz County Code relating to an enhanced penalty for the possession of an open container of alcohol, with the following correction: add the word "Davenport" between the words Oak and beach in Section A. 3 to read: "Live Oak and Davenport beach violation between ten p.m. and six a.m." to return on August 4, 2009 for final adoption

cc:
CAO
County Counsel
Auditor-Controller
Sheriff-Coroner
District Attorney

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed tthe seal of said Board of Supervisors.

by _____ , Deputy Clerk ON June 24,2009

COUNTY OF SANTA CRUZ

OFFICE OF THE COUNTY COUNSEL

701 OCEAN STREET, SUITE 505, SANTA CRUZ, CA 95060-4068 (831) 454-2040 FAX: (831) 454-2115

DANA McRAE, COUNTY COUNSEL

Chief Deputy **Rahn Garcia**

	Assistants		*Special Counsel*
Marie Costa	**Shannon M. Sullivan**	**Betsy L. Allen**	**Dwight Herr**
Jane M. Scott	**Miriam L. Stombler**	**David Brick**	**Deborah Steen**
Tamyra Rice	**Jason M. Heath**	**Jessica C. Espinoza**	**Samuel Torres, Jr.**
	Christopher R. Cheleden	**Sharon Carey-Stronck**	

June 16,2009

Agenda: June 23,2009

Board of Supervisors
county of santa cruz
701 Ocean Street, Room 500
Santa Cruz, CA 95060

RE: AMENDMENT OF COUNTY CODE CHAPTER 8.34.030 (PENALTY ENHANCEMENTS)

Dear Members of the Board:

Historically, the beaches during the summer months, especially around the Fourth of July, have experienced large and unruly crowds. During this time, the Sheriffs Office deals with an increase in public safety issues, ranging from numerous arrests for public intoxication to stabbings. In an effort to deal with these issues proactively, in June 2008 your Board adopted County Code Chapter 8.34.030 to increase the penalties for certain offenses committed during specific times of the year, such as Memorial Day, Fourth of July, and Labor Day. Individuals cited with a violation of Chapter 8.34.030 are subject to larger fines and the offenses at issue are charged as misdemeanors rather than infractions.

After adoption of the ordinance, one of the offenses designated in Chapter 8.34.030 – possession of alcohol in public places – was successfully challenged in court on the grounds that the County is pre-empted by State law from regulating that issue. Based on this, the Sheriffs Office is no longer citing individuals for

violation of Chapter 8.34.030 when the only offense at issue is simple alcohol possession.

At this time, County Counsel, in conjunction with the Sheriffs Office, is recommending that a modified ordinance be submitted for your Board's approval that deletes alcohol possession from the list of offenses subject to Chapter 8.34.030. The remainder of the ordinance would be unchanged.

It is therefore recommended that your Board consider adopting in concept the attached ordinance amending Chapter 8.34.030 to strike "alcohol possession-open container-public place" as a designated offense and direct that the amended ordinance be placed on your next available agenda for final consideration and action.

Sincerely,

DANA McRAE, COUNTY COUNSEL

JASON M. HEATH
Assistant County Counsel

RECOMMENDED:

Susan A. Mauriello
County Administrative Officer

cc: Auditor Controller
Sheriff-Coroner
CAO
District Attorney
County Counsel

72

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTION 8.34.030 OF THE SANTA CRUZ COUNTY CODE RELATING TO AN ENHANCED PENALTY FOR THE POSSESSION OF AN OPEN CONTAINER OF ALCOHOL

The Board of Supervisors of the County of Santa **Cruz** ordains as follows:

SECTION I

Section 8.34.030 of the Santa Cruz County Code is hereby amended to read as follows:

A. Notwithstanding any other provision of this code concerning the designation of crimes and penalties for violation, any violation of the following designated provisions of the Santa Cruz County Code that is committed within the unincorporated area of the county of Santa Cruz on a date designated as applicable in Section 8.34.020 shall be a misdemeanor and shall be subject to an enhanced fine of one thousand dollars:

1. Section 7.92.3301.1.3, Manufacture, possession, storage, sale, transportation, use of explosives, including, but not limited to, all fireworks;
2. Section 8.02.020, Alcohol consumption--publicplace;
3. Section 8.18.030, Live **Oak** beach use violation between ten p.m. and six a.m.;
4. Sections 8.28.030, 8.28.050, 8.28.060 and 8.28.070, Discharging firearms;
5. Section 8.30.010, Offensive noise between ten p.m. and eight a.m.;
6. Section 8.30.020, Subsequent offensive noise within forty-eight hours.

B. A separate offense shall be deemed to have been committed whenever a person repeats the act that constitutes the violation. (Ord. 4953 § 2 (part), **5/13/08;** Ord. **____, / / ___.)**

SECTION II

This ordinance shall take effect and be operative on the 31st day after the date of final passage.

PASSED AND ADOPTED this _____ day of _____,2009, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

_____
Chairperson, Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:

_____
County Counsel

Distribution: County Administrative Office
Sheriff

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, June 22,2009 9:41 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 6/23/2009

Item Number : 72

Name : Bruce Holloway

Email : Not Supplied

Address : Not Supplied

Phone : 338-9122

Comments :
In the ordinance approved in concept last week (item #44 on 6/16/09), subsection 8.18.030(D) has a similar reference to section 8.02.030 regarding an enhanced penalty for alcohol possession that should also be deleted.

And to harmonize section 8.34.030 (item #72 on 6/23/09) with last week's ordinance, the line saying "Live Oak beach use violation" should be changed to something like "Evening beach use violation".