

City of South Gate
PLANNING COMMISSION

AGENDA BILL

For the Regular Meeting of: February 7, 2017

Assistant Planner: Jessica Jimenez Community Development Director: Joe Perez

SUBJECT: A RESOLUTION RECOMMENDING ADOPTION OF AN ORDINANCE AMENDING THE SOUTH GATE MUNICIPAL CODE TO PROHIBIT SINGLE-CAN BEER SALES FOR OFF-SALE ALCOHOL LICENSES

PURPOSE: Consider recommending that the City Council adopt an ordinance prohibiting single-can beer sales for off-sale alcohol licenses.

RECOMMENDED ACTION:

1. **CONDUCT** a public hearing;
2. **ACCEPT** the determination that this project is exempt from the California Environmental Quality Act;
3. **ADOPT** the findings as outlined in Resolution No. 2017-01; and
4. **APPROVE** Resolution No. 2017-01.

PUBLIC NOTIFICATION: Advertising and notification of the public hearing for this item was conducted in compliance with Chapter 11.42, Title 11 of the South Gate Municipal Code. Notice of the hearing was originally posted and published in the “The Press” newspaper on January 26, 2017.

ENVIRONMENTAL EVALUATION: The foregoing amendment to the South Gate Zoning Code is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed amendment to the South Gate Zoning Code would only add to the conditions of approval for the alcoholic beverage sales, and would not cause a significant impact on the environment.

ANALYSIS: Chapter 11.42 (Alcoholic Beverage Sales) of the South Gate Municipal Code contains regulations for the sale of alcoholic beverages. The municipal code requires businesses desiring to sell alcoholic beverages to first obtain a Conditional Use Permit (CUP) from the City. Conditional Use Permits impose operational requirements, hours of operation limitations, alcohol type

restrictions and advertising limits. Language prohibiting the sale or distribution of single cans of alcohol would be added to Section 11.42.070 (Conditions of Approval) under “A. Mandatory Conditions.” The proposed amendment would prohibit the sale of single-can beer sales and apply only to new businesses applying for a conditional use permit and proposing to sell single-cans of beer. The text amendment would not be imposed on retailers who are currently licensed to sell alcoholic beverages before the new ordinance goes into effect.

This proposed prohibition would protect the public health, safety and welfare by deterring, preventing and/or mitigating certain public nuisance conditions and activities that may arise from single-can beer sales. Single-can beer sales are defined as the sale of any individual beer can packaged and sold individually as a single serving. Common examples would be a 12 or 24 ounce can of beer or 32-ounce or 40-ounce bottle of beer.

Single-can beer sales may lead to public intoxication and disruptive behavior causing visual blight—such as public urination, petty theft, panhandling, litter, and loitering. A prohibition on single-can beer sales will help in preventing unlawful activities and conditions that may cause visual blight on the community.

Proposed Text Amendment

The proposed text amendment would add a fourth condition to Section 11.42.070 Conditions of Approval, Mandatory Conditions, Subsection (A)(4) which will read:

- 4. The sale or distribution of single containers of beer, malt liquor, or ale shall be prohibited for off-site consumption.**

BACKGROUND:

At its November 7, 2016 meeting the City Council reviewed the City’s policies regarding alcoholic beverage sales. On December 13, 2016, the City Council directed that a proposed code amendment prohibiting single-can beer sales for off sale alcohol licenses be presented to the Planning Commission for consideration.

ATTACHMENTS:

- A: Proposed Resolution No. 2017-01
- B: Draft Ordinance
- C: Proof of Publication

RESOLUTION NO. 2017-01

A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT THE SOUTH GATE CITY COUNCIL ADOPT AN ORDINANCE AMENDING TITLE 11 (ZONING), SECTION 11.42.070 CONDITIONS OF APPROVAL FOR ALCOHOL BEVERAGE SALES - BY ADDING LANGUAGE THAT PROHIBITS THE SALE OF SINGLE-CAN BEERS FOR OFF-SITE CONSUMPTION

WHEREAS, at its December 13, 2016 meeting, the South Gate City Council directed that the Planning Commission consider a code amendment prohibiting single-can beer sales for off-site consumption; and

WHEREAS, on January 26, 2017, the Planning Division published a public hearing notice in the "South Gate Press;" and

WHEREAS, on February 7, 2017, the Planning Commission conducted a duly noticed public hearing on the proposed amendment, at which hearing the Commission carefully reviewed and considered all of the evidence presented in connection with the proposed amendment, including but not limited to the staff report and all written and oral testimony presented; and

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF SOUTH GATE, CALIFORNIA, HEREBY RESOLVES AS FOLLOWS:

Section 1: The Planning Commission hereby finds that the adoption of the proposed Zoning Text Amendment would:

- a. Protect public health, safety, and welfare by deterring, preventing and/or mitigating conditions, including but not limited to criminal activities, loitering, drinking in public, littering and panhandling.

Section 2: The adoption of the Proposed Zone Text Amendment would be consistent with the goals and objectives of the adopted General Plan. Specifically, the Planning Commission finds that the proposed addition and amendment is consistent with Community Design Goal 4 which is for the "Preservation and enhancement of existing neighborhood's quality and character."

Section 3: The foregoing amendment to the South Gate Zoning Code is exempt from the California Environmental Quality Act ("CEQA") under section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The proposed amendment to the South Gate Zoning Code would only improve conditions of approval for the alcoholic beverages sales, and would not cause a significant impact on the environment.

Section 4: Based upon the foregoing, the Planning Commission does hereby recommend to the City Council approval of the addition of Section 11.42.070(A)(4) to the South Gate Zoning Code

prohibiting the sale of single-can beers, as described in the draft ordinance, attached hereto and made a part of this resolution.

This recommendation was adopted by the following vote at the Planning Commission meeting of February 7, 2017.

AYES:

NOES:

ABSENT:

NOT VOTING:

APPROVED and ADOPTED this seventh day of February 2017.

Joe Perez
Secretary
City Planning Commission

APPROVED:

Sylvia Masushige
Chairperson
City Planning Commission

ORDINANCE NO. 156

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH GATE, CALIFORNIA, PROHIBITING THE SALE OF SINGLE-CAN BEERS FOR OFF-SITE CONSUMPTION

WHEREAS, the City of South Gate has the authority, under its police power, to enact regulations for the public peace, morals and welfare of the City pursuant to California Constitution, Article XI, Section 7; and

WHEREAS, the City finds that the sale of single-serve alcoholic beverages, including but not limited to single-can beer sales, by establishments selling for off-site consumption are a threat to the public peace, safety, and welfare of the City; and

WHEREAS, the sale of single-can beer sales can have a direct impact on the surrounding neighborhood and community such that regulations to mitigate visual impacts are appropriate; and,

WHEREAS, the City finds and declares that the purchase of single-serve alcoholic beverages intended for off-site consumption contributes to loitering, drinking in public, littering and panhandling; and

WHEREAS, the proposed South Gate Zoning Code amendment was duly published and on the agenda for discussion and public hearing before the Planning Commission on January 26, 2017; and

WHEREAS, at the conclusion of the public hearing held at the meeting of the Planning Commission on February 7, 2017, the Planning Commission adopted Resolution 2017-01 recommending that the City Council approve the amendment to the South Gate Zoning Code as set forth in this ordinance; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH GATE, CALIFORNIA DOES FIND AND ORDAIN AS FOLLOWS:

SECTION 1. The adoption of the Proposed Zoning Text Amendment would be consistent with the goals and objectives of the adopted General Plan. Specifically, the City Council finds that the proposed addition and amendment is consistent with Community Design Goal 4, which is for the "Preservation and enhancement of existing neighborhood's quality and character."

SECTION 2. The foregoing amendment to the South Gate Zoning Code is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect of the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed amendment to the South Gate Zoning Code would only improve the conditions of approval for the alcoholic beverage sales, and would not cause a significant impact on the environment.

SECTION 3. The South Gate Zoning Code section 11.42.070(A)(4) is hereby amended to read, entirely as follows:

1. No alcoholic beverages, including beer and wine, shall be consumed on the premises for off-sale uses.
2. No alcohol sales displays shall be permitted that are visible from the public street or parking lot.
3. Employees selling alcoholic beverages shall be of an age consistent with Section 2563 of the Business and Professions Code.
4. The sale or distribution of single containers of beer, malt liquor, or ale shall be prohibited for off-site consumption.

SECTION 4. If any section, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. This Ordinance shall be in full force and effect thirty (30) days after its final passage and adoption.

SECTION 6. The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of the same to be published in a manner prescribed by law.

PASSED, APPROVED and ADOPTED this ___th day of _____, 2017.

CITY OF SOUTH GATE:

W.H. (Bill) De Witt, Mayor

ATTEST:

Carmen Avalos, City Clerk
(Seal)

APPROVED AS TO FORM:

Raul F. Salinas, City Attorney

SOUTH GATE PRESS

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The space for filing stamp only

**Office of the
South Gate City Clerk**

JAN 30 2017

FILED

Carmen Avalos, City Clerk
SOUTH GATE CITY CLERK
8650 CALIFORNIA AVE
SOUTH GATE, CA - 90280

PRE #: 2968089

**PUBLIC NOTICE
CITY OF SOUTH GATE
PLANNING COMMISSION
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of South Gate will hold a public hearing on Zone Text Amendment No. 156.
DATE OF HEARING: Tuesday, February 7, 2017
TIME OF HEARING: 7:00 pm
LOCATION OF HEARING:

City Hall Council Chamber
City of South Gate
8650 California Avenue
South Gate, California

PROJECT LOCATION: Citywide
PROJECT DESCRIPTION: Consideration of an Ordinance amending Title 11.42.070 of the South Gate Municipal Code regarding Alcoholic Beverage Sales

ENVIRONMENTAL REVIEW: The project has been deemed Categorical Exempt under Section 15061 (b)(3) of California Environmental Quality Act. A project is exempt from CEQA if: (the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA).

INVITATION TO BE HEARD: All interested persons are invited to the public hearing to be heard in favor of or in opposition to the proposed project or to provide comments. In addition, written comments may be submitted to the Community Development Department prior to the hearing. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing, described in this Notice, or in written correspondence delivered to the City of South Gate prior to or at the public hearing. Those desiring a copy of the staff report or further information related to this project should contact Contact: Jessica C. Jimenez, Assistant Planner
Phone: 323-563-9514
E-mail: jjimenez@sogate.org

Mailing Address:
Community Development Department
City of South Gate
8650 California Avenue
South Gate, CA 90280-3075
Joe Perez
Community Development Director

ESPAÑOL
información en Español acerca de esta junta puede ser obtenida llamando al 323-563-9514
1/26/17

**PRE-2968089#
SOUTH GATE PRESS**

PROOF OF PUBLICATION

(2015.5 C.C.P.)

State of California)
County of LOS ANGELES) ss

Notice Type: HRG - NOTICE OF HEARING

Ad Description:

Citywide Zoning Amendment Prohibiting Single-Can Beer

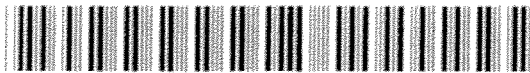
I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer and publisher of the SOUTH GATE PRESS, a newspaper published in the English language in the city of SOUTH GATE, county of LOS ANGELES, and adjudged a newspaper of general circulation as defined by the laws of the State of California by the Superior Court of the County of LOS ANGELES, State of California, under date 04/19/1929, Case No. 273415. That the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

01/26/2017

Executed on: 01/26/2017
At Los Angeles, California

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Signature



Email * A 0 0 0 0 0 4 3 4 2 2 4 0 *