



CITY OF

NEWPORT BEACH

City Council Staff Report

September 23, 2025
Agenda Item No. 5

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: David Miner, Chief of Police - 949-644-3701, dminer@nbpd.org

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TITLE: Ordinance No. 2025-28: Amending Subsection B of Section 10.04.010 of Chapter 10.04 to define Possession of an Open Container

ABSTRACT:

For the City Council's consideration is the amendment of Subsection B of Section 10.04.010 (Drinking in Public) of Chapter 10.04 (Intoxicating Liquor) of the Newport Beach Municipal Code (NBMC) related to the Possession of Alcoholic Beverages to further define Possession of an Open Container.

RECOMMENDATIONS:

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Waive full reading, direct the City Clerk to read by title only, and introduce Ordinance No. 2025-28: *An Ordinance of the City Council of the City of Newport Beach, California, Amending Section 10.04.010 (Drinking in Public) of Chapter 10.04 (Intoxicating Liquor) of the Newport Beach Municipal Code related to the Possession of Alcoholic Beverages* and pass to a second reading on October 14, 2025.

DISCUSSION:

It is generally prohibited for any person to possess an opened, partially consumed, or unsealed container of alcoholic beverage in or on public streets, sidewalks, alleys, restrooms, parking lots (public or private), beaches, piers (open to the public), parks, vacant lots, or private property visible to the public. Regulations for drinking in public are defined currently under NBMC Section 10.04.010 (Drinking in Public). Specifically, Subsection B of Section 10.04.010 addresses possession of an open container of alcohol.

Recent discussions have raised questions regarding the interpretation of the term "possession," and whether it refers to actual physical possession or also includes constructive, joint or other types of possession, such as when an individual has control over or access to an open container of alcohol, even if not physically held.

Particularly while working beach enforcement, Police Officers often come across individuals with open containers of alcohol on the sand next to them, or containers within their immediate reach and vicinity.

In order to ensure clarity and consistency, the Police Department staff wishes to amend the definition of “possession” included in Subsection B of Section 10.04.010 for the purposes of enforcing the prohibition, including distinctions between actual, constructive, joint, and other types of possession of alcoholic beverages in public areas.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Ordinance No. 2025-28

Attachment B – Redline of Subsection B of Section 10.04.010 of Chapter 10.04 of the Newport Beach Municipal Code