

Attachment B

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

10.04.010 Drinking in Public.

A. No person shall drink or consume any alcoholic beverage in or on any public street or alley, public sidewalk, public or private parking lot, public restroom, public pier, private pier open to the public upon the payment of any fee, public beach, vacant lot, or public park or private property which is open to public view without the consent of the owner or person in lawful possession or control of the private property. The provisions of this section shall also apply to any beach or public parking facility in the area commonly known as Newport Dunes.

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B. No person shall possess any can, bottle or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, in or on any public street or alley, public sidewalk, public or private parking lot, public restroom, public pier, private pier open to the public upon the payment of any fee, public beach, vacant lot, or public park, or private property which is open to public view, without the consent of the owner or person in lawful possession or control of the private property. The provisions of this section shall also apply to any beach or public parking facility in the area commonly known as Newport Dunes.

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C. As used in Section, the term "possess" shall include: actual possession, which is the physical custody or control of the can, bottle or other receptacle, such as holding or carrying an open container of alcohol; constructive possession, which is the ability and intent to exercise control over the can, bottle or other receptacle, even if it is not physically held, such as when an open container is within one's immediate reach or in a personal vehicle or property under one's control; joint possession, which is where two or more individuals share control or custody of the can, bottle or other receptacle; or any other circumstance in which a person knowingly exercises control or dominion over the can, bottle or other receptacle, whether physically or through indirect means.

D. Alcoholic beverages as used in this section include alcohol, spirits, wine or beer and which contain one-half of one percent or more of alcohol by volume, and which is fit for beverage purposes, either alone or when distilled, mixed or combined with other substance.

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E. The provisions of this section shall not apply where the consumption or possession is within premises located in a park or other public place for which a license has been issued pursuant to California Business and Professions Code, Division 9, pursuant to an approved special event permit in compliance with

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Chapter 11.03, or where the consumption or possession is within the outdoor area of a lawfully permitted eating and drinking establishment.

~~E.~~

~~F.~~ Any person violating or failing to comply with subsection (B) of this section shall be guilty of an infraction, and subject to punishment as set forth in this Code.

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