

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** Ron Nelson, Captain

**DATE:** January 15, 2009 (CC Meeting of 1/21/09)

**SUBJECT:** Consider an Ordinance Amending Chapter 9.20, Alcoholic Beverages, of Title 9, Public Peace, Morals and Welfare, of the Moorpark Municipal Code

**SUMMARY**

Moorpark Municipal Code (MMC) Section 9.20.010 currently makes it a public offense for persons to drink alcoholic beverages in public places such as streets, sidewalks, highways, alleys, public school grounds, public parks or other publicly owned properties. Chapter 9.20 was adopted in 1983 when the City of Moorpark (City) was incorporated and this chapter was taken directly from Section 6112 of the Codified Ordinances of the County of Ventura. Section 9.20.010 of the MMC requires updating in order to keep up with current trends and quality of life issues within the City. Sections 9.20.020 and 9.20.030 are also proposed to be updated for internal MMC consistency.

**DISCUSSION**

The current code only addresses actual consumption and does not address persons possessing open containers of alcoholic beverages in public for the purpose of consumption. In order to enforce the problem of public consumption of alcohol, law enforcement officers must witness a person actually drinking the alcoholic beverage. Other factors such as the fact that a person is in possession of the beverage and may have the odor of alcohol on their breath are not enough to take legal enforcement action. Many other municipalities incorporate language in their municipal codes to address possession of open containers.

Secondly, the current code does not address the public consumption or possession of open containers of alcoholic beverages in areas that are on private property but open to the public, such as shopping centers. The Police Department receives complaints regularly from the public regarding persons drinking alcoholic beverages in local public shopping centers. Because these areas are actually privately owned, they are not

covered by the current code and thereby do not meet the requirements for enforcement action. Many other municipalities address this situation by prohibiting drinking and possessing open alcoholic beverages in these areas.

Thirdly, the current code specifically defines the various public places that are, "...owned or occupied by the county and in the unincorporated territory of the county." Although Section 1.04.150.D of the MMC provides that said reference to the county shall be interpreted to mean the City of Moorpark, the references to the county in Sections 9.20.010 and 9.20.020 are proposed to be revised with this ordinance.

A review of all of the Municipal Codes for the ten incorporated cities in Ventura County revealed that half of them prohibit the possession of open containers of alcoholic beverages in public places. Seven of them prohibit drinking and/or possessing alcoholic beverages in public areas including private property open to the public. The cities are listed below:

- Camarillo – Drink or Possess      Private Property Included
- Fillmore – Drink      Private Property Included
- Moorpark – Drink
- Ojai – Drink      Private Property Included
- Oxnard – Drink or Possess      Private Property Included
- Port Hueneme – Drink
- Santa Paula – Drink or Possess
- Simi Valley – Drink or Possess      Private Property Included
- Thousand Oaks – Drink      Private Property Included
- Ventura – Drink or Possess      Private Property Included

Drinking alcoholic beverages in areas that are open to the public, but are not regulated by The State Alcohol Beverage Control Agency, has traditionally led to a decline in the quality of life. Drinking alcoholic beverages in shopping center parking lots are the most problematic as it has led many times to problems such as intoxicated persons, littering, fights and other disturbances. In order to address these issues, a revision prohibiting the consumption or possession of open containers in places open to the public would allow law enforcement to take action whenever these conditions arise. The proposed revisions to the code are shown by the use of legislative format, as follows:

**9.20.010      Public consumption—Prohibition.**

~~No person shall drink any malt, spiritous or vinous liquors containing more than one-half of one percent (.5%) of alcohol by volume upon any street, sidewalk, highway or alley, or while occupying any vehicle or conveyance thereon or upon any public school grounds or buildings, bleachers or stadium thereon, or in any public park or in or upon any building or premises or portion thereof which is owned or occupied by the county and in the unincorporated territory of the county.~~

It shall be unlawful for any person to drink any malt, spiritous, or vinous liquor containing more than one-half (1/2) of one percent of alcohol by volume or to hold or to exercise dominion and control over any open container containing such beverage:

A. Upon any public street, sidewalk, highway, or alley or while occupying any vehicle or conveyance thereon;

B. Upon any public school ground or any building, bleacher, or stadium thereon;

C. In any public place, place of public assembly, or in any place open to the public;

D. In or upon any building or premises, or portion thereof, owned or occupied by the City, County, State, a park district, school district, sanitation district, flood control district, water works district, or by any other governmental agency; and

E. Upon any private street, building, or other private property within the City without the consent of the person or entity in possession or control thereof.

**9.20.020 Public consumption—Exceptions.**

~~The provisions of Section 9.20.010 of this chapter shall not prohibit the drinking of such alcoholic beverages:~~

~~— A. In or upon a public park when the same has been taken over by an organization for the purpose of a social gathering on the part of such organization; or~~

~~— B. In or upon any building or premises or portion thereof which is owned or occupied by the county when said drinking is in or upon premises where the sale of alcoholic beverages is authorized by license or permit.~~

The provisions of Section 9.20.010 of this chapter shall not prohibit the drinking of such alcoholic beverages in or upon any City owned property, if permitted by Title 12 of the Municipal Code, and when authorized by license or permit.

**9.20.030 Disposal of containers.**

No person shall deposit on any public street, sidewalk, highway, alley or other public way any receptacles or containers for alcoholic beverages.

**FISCAL IMPACT**

None

**STAFF RECOMMENDATION**

Introduce Ordinance No. \_\_\_ for the first reading, waive full reading, and schedule second reading and adoption for February 4, 2009.

Attachments: Draft Ordinance

ATTACHMENT

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, AMENDING CHAPTER 9.20, ALCOHOLIC BEVERAGES, OF TITLE 9 PUBLIC PEACE, MORALS AND WELFARE, OF THE MOORPARK MUNICIPAL CODE, INCLUDING TO MAKE IT UNLAWFUL FOR PERSONS TO CONSUME OR POSSESS OPEN CONTAINERS OF ALCOHOLIC BEVERAGES IN A PUBLIC PLACE

WHEREAS, Section 9.20.010 of the Moorpark Municipal Code, entitled, "Public Consumption - Prohibition" presently establishes that it is unlawful for persons to consume alcoholic beverages on public property; and

WHEREAS, amending section 9.20.010 of the Moorpark Municipal Code, changing the language to include persons who hold or exercise dominion and control over open containers of an alcoholic beverage, and to include places open to the public including private property without the consent of the property owner, will allow the City to maintain a higher quality of life, free from the problems associated with public drinking and intoxication; and

WHEREAS, amendments to Sections 9.20.020 and 9.20.030 are also required for internal Moorpark Municipal Code consistency.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. Sections 9.20.010, 9.20.020, and 9.20.030 of Chapter 9.20 of the Moorpark Municipal Code are amended in their entirety to read as follows:

**"9.20.010 Public consumption--Prohibition**

It shall be unlawful for any person to drink any malt, spiritous, or vinous liquor containing more than one-half (1/2) of one percent of alcohol by volume or to hold or to exercise dominion and control over any open container containing such beverage:

A. Upon any public street, sidewalk, highway, or alley or while occupying any vehicle or conveyance thereon;

B. Upon any public school ground or any building, bleacher, or stadium thereon;

C. In any public place, place of public assembly, or in any place open to the public;

D. In or upon any building or premises, or portion thereof, owned or occupied by the City, County, State, a park district, school district, sanitation district, flood control district, Water Works District, or by any other governmental agency;

E. Upon any private street, building, or other private property within the City without the consent of the person or entity in possession or control thereof.

**9.20.020 Public consumption—Exceptions.**

The provisions of Section 9.20.010 of this chapter shall not prohibit the drinking of such alcoholic beverages in or upon any City owned property, if permitted by Title 12 of the Municipal Code, and when authorized by license or permit.

**9.20.030 Disposal of containers.**

No person shall deposit on any public street, sidewalk, highway, alley or other public way any receptacles or containers for alcoholic beverages.”

SECTION 2. If any section, subsection, subdivision, sentence, clause, or portion of this ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have adopted this ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 3. This ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 4. The City Clerk shall certify to the adoption of this ordinance and shall cause a certified copy to be filed in the book of original ordinances.

PASSED AND ADOPTED this \_\_\_\_ day of February, 2009.

\_\_\_\_\_  
Janice S. Parvin, Mayor

ATTEST:

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Deborah S. Traffenstedt, City Clerk