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DEPARTMENT OF  
POLICE

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October 20, 2004

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Law and Legislation Committee  
Sacramento, California 95814

Honorable Members in Session:

**SUBJECT: PROPOSED AMENDMENT TO SACRAMENTO CITY CODE 9.04.050  
ORDINANCE PROHIBITING THE CONSUMPTION OF ALCOHOLIC BEVERAGES  
IN PUBLIC PLACES**

**LOCATION AND COUNCIL DISTRICT:** Citywide, All Council Districts

**RECOMMENDATION:**

This report is for Committee direction to staff on this issue.

**CONTACT PERSON:** Kyle Jaspersen, POP Officer, Office of Operations, 277-6142  
Sherri Scruggs, Program Analyst, Office of Operations, 433-0710

**FOR THE COMMITTEE MEETING OF:** November 16, 2004

**SUMMARY:**

The City currently has an ordinance prohibiting the consumption of alcoholic beverages in public places. The City does not have an ordinance prohibiting the possession of open alcoholic beverages upon public properties.

Staff has drafted a Discussion Paper on this topic and attached it to this report as Exhibit "A".

Staff proposes that the City amend the current ordinance to include prohibiting the possession of open alcoholic beverages in public. Staff has conducted research into similar ordinances from other cities. The Police Department would like to work with the City Attorney's office to determine whether the prohibition can be extended to private property. A sample ordinance has been attached to this report as Exhibit "B" (City of Chico).

*The mission of the Sacramento Police Department is to work in partnership with the Community to protect life and property; solve neighborhood problems, and enhance the quality of life in our City.*

**BACKGROUND:**

Current Sacramento City Code 9.04.050 states, in part, that, *“It is unlawful for any person to consume beer, wine or any intoxicating liquor on any street, sidewalk, alley, highway or public court.”* This ordinance only pertains to the consumption of alcoholic beverages. There is no ordinance in Sacramento that prohibits the *possession of an open* container and consumption of alcoholic beverages upon public *properties*.

**FINANCIAL CONSIDERATIONS:**

This proposed amendment to the City Code has no current fiscal effect.

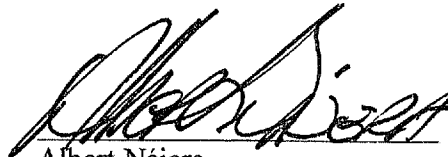
**POLICY CONSIDERATIONS:**

Per the policies approved by the City Council, proposed new City legislation is reviewed by the Law and Legislation Committee to provide policy direction to staff prior to proceeding with drafting an ordinance for the Committee and Council consideration.

**ESBD CONSIDERATIONS:**


None.

Respectfully submitted,



Albert Nájera  
Chief of Police

**RECOMMENDATION APPROVED:**

  
Ken Nishimoto  
Deputy City Manager

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## EXHIBIT "A"

### **Discussion Paper on Proposed Amendment to Ordinance Prohibiting the Consumption of Alcoholic Beverages in Public Places – Sacramento City Code 9.04.050**

It is common to observe people in an intoxicated state, walking along the public streets and sidewalks with an open container, especially in the Downtown and high-crime areas. These intoxicated people are often a source of repeated nuisance activities and consequently police calls-for-service from citizens.

Some of the nuisance activities commonly associated with possession/consumption of alcoholic beverages upon public and private properties include, but are not limited to:

- Disturbance of the peace
- Public drunkenness
- Soliciting
- Gambling
- Illegal drug activity
- Public urination
- Assaults/Batteries
- Acts of vandalism
- Excessive littering
- Loitering
- Lewd conduct
- General disruption of the health, peace, and/or safety of citizens residing or working in the surrounding area

Current Sacramento City Code 9.04.050 states, in part, that, "*It is unlawful for any person to consume beer, wine or any intoxicating liquor on any street, sidewalk, alley, highway or public court.*" However, this ordinance only pertains to the *consumption* of alcoholic beverages. There is no ordinance in Sacramento that prohibits the *possession* of open alcoholic beverages upon public properties. Staff would like to work with the City Attorney's office to determine whether the prohibition can be extended to private property.

Logically, if people possess open alcoholic beverages, then they are also consuming these beverages. The Police Department has no authority to take enforcement action unless an officer witnesses the person drinking from the container. Staff proposes that the City amend the current ordinance to include prohibiting the *possession* and consumption of alcoholic beverages upon public *properties*.

If approved, the amended language for this ordinance would state, in part, *"It is unlawful for any person to possess an open alcoholic beverage or to consume an alcoholic beverage on any street, sidewalk, public walkway, alley, highway, or city parking lot, unless pursuant to a license issued for that purpose by the State of California Alcoholic Beverage Control Office."*

Staff has conducted research and found that the City of Chico has an ordinance that prohibits the possession and consumption of alcoholic beverages in public and private properties, as do many other cities throughout the state. Staff has reviewed these ordinances and attached one of them as an example. This example is from the City of Chico, and is marked Exhibit "B".

The California Business and Professions Code, 25620 B&P, already prohibits the possession of open alcoholic beverages in public places. This code requires that the City enact its own ordinance prohibiting the possession of open alcoholic beverages in public places in order to enforce the State code.

Specifically, California Business and Profession Code 25620 states that:

*"Any person possessing any can, bottle, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, in any city, county, or city and county owned park or other city, county, or city and county owned public place, or any recreation and park district, or any regional park or open-space district shall be guilty of an infraction if the city, county, or city and county has enacted an ordinance that prohibits the possession of those containers in those areas or the consumption of alcoholic beverages in those areas."*

Amending the current City ordinance to include prohibiting the possession of open alcoholic beverages in public and private properties is necessary in order to allow the Police Department to enforce State Business and Professions Code 25620.

## EXHIBIT "B"

### CITY OF CHICO MUNICIPAL CODE:

#### **9.30.010 Purpose.**

This chapter is adopted pursuant to the municipal affairs provisions of Section 201 of the City Charter for the purpose of regulating the possession and consumption of alcoholic beverages upon certain public and private properties.

#### **9.30.030 Prohibition on the possession and consumption of alcoholic beverages.**

It shall be unlawful for any person to possess an open container of an alcoholic beverage or

to consume an alcoholic beverage upon any of the following properties within the city:

A. Upon any public street, sidewalk, alley, parking lot, or other property which is owned by or

leased to the city and open to members of the general public, except for:

1. Any city park or playground in which the possession and consumption of alcoholic

Chico Municipal Code POSSESSION AND CONSUMPTION

OF ALCOHOLIC BEVERAGES

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beverages is regulated by the park rules adopted in Title 12R of this code; and

2. Any portion of the Chico Municipal Airport in which the possession and consumption of alcoholic beverages is regulated by the airport rules and regulations adopted in Title 11R of this code; and

3. Any city property which is leased to a third party in which the lease agreement does not

prohibit the possession and consumption of alcoholic beverages; and

4. Any portion of a public street, sidewalk, alley, parking lot or other property owned by or leased to the city in which the sale of alcoholic beverages is permitted as part of a franchise granted by the council pursuant to Chapter 14.60 of this code.

B. Upon any private parking lot which is located on property used for commercial purposes,

except when the owner or other person entitled to the possession of the parking lot has given prior consent to the possession of an open container of an alcoholic beverage or the consumption of an alcoholic beverage within such private parking lot.