



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** September 2, 2021

Staff Contact: Jason D. Woodbury, District Attorney

Agenda Title: For Possible Action: Discussion and possible action: (1) regarding a business impact statement concerning a proposed ordinance prohibiting possession of an open container of an alcoholic beverage in a public place; and (2) to introduce, on first reading, a proposed ordinance prohibiting possession of an open container of an alcoholic beverage in a public place. (Jason D. Woodbury, jwoodbury@carson.org)

Staff Summary: This is the first reading of a proposed ordinance which, if enacted, would prohibit the possession of an open container of an alcoholic beverage in a public place except as permitted by a special event liquor permit or encroachment permit. NRS 237.080 requires a business impact statement to be prepared whenever an ordinance by the adoption of which the governing body of a local government exercises legislative powers. The business impact statement finds that the proposed ordinance will not impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business.

Agenda Action: Ordinance - First Reading **Time Requested:** 10 minutes

Proposed Motion

1. I move to approve the business impact statement as presented.
2. I move to introduce, on first reading, Bill No. _____.

Board's Strategic Goal

Safety

Previous Action

N/A

Background/Issues & Analysis

Possession of an alcoholic beverage in a public place was previously prohibited by Carson City Municipal Code ("CCMC") 4.13.210. Title 4, Chapter 13 of CCMC was substantially revised in 2017. In the course of that revision, CCMC 4.13.210 was repealed. The proposed ordinance reinstates the substance of former CCMC 4.13.210 in a format that complies with the ordinance drafting protocols being utilized by the Carson City District Attorney's office.

As an exercise of legislative powers, the introduction and adoption of an ordinance by the governing body of a local government such as the Board of Supervisors requires the preparation of a business impact statement in accordance with NRS Chapter 237. But because there are no trade associations or businesses that are likely to be affected by the ordinance and therefore there is no person or entity to whom notice could be given regarding the introduction of this ordinance, the contents of the business impact statement are mostly

inapplicable. However, a completed business impact statement has been prepared and is attached to this agenda item in compliance with the statutory procedural requirement.

Applicable Statute, Code, Policy, Rule or Regulation

NRS Chapter 237; NRS 244.357; Carson City Charter §2.200

Financial Information

Is there a fiscal impact? No

If yes, account name/number:

Is it currently budgeted?

Explanation of Fiscal Impact:

Alternatives

1. Do not approve the business impact statement or modify the business impact statement.
2. Do not introduce the ordinance on first reading or modify the ordinance.

Attachments:

[BIS](#)

[20210825 Ord_2020_Open Container.docx](#)

Board Action Taken:

Motion: _____	1) _____	Aye/Nay
	2) _____	_____

(Vote Recorded By)



BUSINESS IMPACT STATEMENT

This Business Impact Statement was prepared in accordance with the provisions of NRS (Nevada Revised Statutes) 237.030 to 237.150, inclusive, as a statutory prerequisite to the adoption of any rule***, as that term is defined in NRS 237.060, by the Carson City Board of Supervisors.

*** A "rule" may include an ordinance, or an action taken by the Board, that imposes, increases or changes the basis for the calculation of a fee which is paid in whole or in substantial part by businesses. A "rule" **does not** include actions that impose, increase or change the basis for the calculation of: (1) special assessments imposed pursuant to NRS chapter 271; (2) impact fees imposed pursuant to NRS chapter 278B; (3) fees for remediation imposed pursuant to NRS chapter 540A; (4) taxes ad valorem; (5) sales and use taxes; or (6) a fee that has been negotiated pursuant to a contract between a business and Carson City. A "rule" also **does not** include: an action taken by the Board that approves, amends or augments the annual budget of Carson City; an ordinance adopted by the Board pursuant to a provision of NRS chapter 271, 271A, 278, 278A, 278B or 350; an ordinance adopted or action taken by the Board that authorizes or relates to the issuance of bonds or other evidence of debt of Carson City; or any rule for which Carson City does not have the authority to consider less stringent alternatives, including, for example, a rule that Carson City is required to adopt pursuant to a federal or state statute or regulation or to a contract into which Carson City has entered.

ORDINANCE OR ACTION PROPOSED FOR ADOPTION

AN ORDINANCE RELATING TO PUBLIC SAFETY; AMENDING TITLE 8 (PUBLIC PEACE, SAFETY, AND MORALS), CHAPTER 8.04 (PROHIBITED CONDUCT) TO PROHIBIT POSSESSION OF AN OPEN CONTAINER OF AN ALCOHOLIC BEVERAGE IN A PUBLIC PLACE; PROVIDING A PENALTY; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

1. *The manner in which notice was provided to the applicable trade associations and officers of businesses likely to be affected by the proposed ordinance or action, and a summary of any data, arguments or comments received from those recipients:*

a. Notice

N/A. There are no trade associations or officers of businesses likely to be affected by the ordinance and therefore no person to whom a notice is required to be given.

b. Summary of comments

N/A

2. *The estimated economic effect of the proposed ordinance or rule on businesses,*

including both adverse and beneficial effects, and both direct and indirect effects:

a. Adverse effects:

N/A

b. Beneficial effects:

N/A

c. Direct effects:

N/A

d. Indirect effects:

N/A

3. *The methods considered by the Carson City Board of Supervisors to reduce the impact of the proposed ordinance or action on businesses and whether any of those methods were used:*

N/A

4. *Estimate of the annual cost to Carson City for enforcement of the proposed ordinance or action:*

N/A

5. *The total annual amount of money expected to be collected as a result of the new fee or increase in fee proposed by the ordinance or action, and the manner in which the money will be used:*

N/A

6. *The proposed ordinance or action [] DOES [X] DOES NOT include any provisions which duplicate or are more stringent than Federal, State or local standards regulating the same activity.*

7. *The reasons for the conclusions regarding the impact of the proposed ordinance or action:*

N/A

8. *Based on the information considered, it has been determined that this proposed ordinance or rule:*

DOES DOES NOT impose a direct and significant economic burden upon a business.

DOES DOES NOT directly restrict the formation, operation or expansion of a business.

Pursuant to NRS 237.090(3), this Business Impact Statement was prepared and made available for public inspection by the Carson City Manager's Office at the time the agenda notice on which the proposed ordinance or rule described in this statement is included was posted.

Pursuant to NRS 237.090(2), I, Nancy Paulson, the City Manager of Carson City, hereby certify that to the best of my knowledge and belief the information contained herein was properly prepared and is accurate.

Nancy Paulson
Signature

8/25/21
Date

Nancy Paulson
Printed Name

Summary: Prohibits possession of an open container of an alcoholic beverage in a public place.

BILL NO. _____

ORDINANCE No. 2021 - _____

AN ORDINANCE RELATING TO PUBLIC SAFETY; AMENDING TITLE 8 (PUBLIC PEACE, SAFETY, AND MORALS), CHAPTER 8.04 (PROHIBITED CONDUCT) TO PROHIBIT POSSESSION OF AN OPEN CONTAINER OF AN ALCOHOLIC BEVERAGE IN A PUBLIC PLACE; PROVIDING A PENALTY; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

The Board of Supervisors of Carson City do ordain:

SECTION I:

That Title 8 (PUBLIC PEACE, SAFETY, AND MORALS), Chapter 8.04 (PROHIBITED CONDUCT) is hereby amended by adding thereto a new Section (**bold, underlined** text is added, [~~stricken~~] text is deleted) as follows:

CCMC 8.04.123 – Possessing open container of alcoholic beverage in public place unlawful. (NRS 244.357; Carson City Charter §2.200)

1. Except as otherwise provided in this subsection, it is unlawful for a person to have an open container of an alcoholic beverage while in a public place. This subsection does not apply to a person who is authorized to be in possession of an open container of an alcoholic beverage in a public place in accordance with:

(a) A special event liquor permit issued pursuant to CCMC 4.13.250; or

(b) An encroachment permit issued pursuant to CCMC 11.35.120.

2. A person who violates subsection 1 is guilty of a misdemeanor.

3. As used in this section:

(a) “Alcoholic beverage” has the meaning ascribed to it in NRS 202.015 and means:

(1) Beer, ale, porter, stout and other similar fermented beverages, including sake and similar products, of any name or description containing one-half of 1 percent or more alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

(2) Any beverage obtained by the fermentation of the natural content of fruits or other agricultural products containing sugar, of not less than one-half of 1 percent of alcohol by volume.

(3) Any distilled spirits commonly referred to as ethyl alcohol, ethanol or spirits of wine in any form, including all dilutions and mixtures thereof from whatever process produced.

(b) "Open container" has the meaning ascribed to it in subsection 4 of NRS 484B.150 and means a container which has been opened or the seal of which has been broken.

(c) "Public place" means an area to which the public is invited or in which the public is permitted regardless of age and is real property owned or controlled by Carson City, including, without limitation, any public street, roadway, parking lot, sidewalk, park, trail or structure.

SECTION II:

That no other provisions of Title 8 of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____, 2021.

PROPOSED by _____.

PASSED on _____, 2021.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

Lori Bagwell
Mayor

ATTEST:

Aubrey Rowlatt
Clerk-Recorder

This ordinance shall be in force and effect from the _____ day of the month of _____ of the year 2021.