

Lemos, June

From: Miller, Tabatha
Sent: Thursday, January 24, 2019 12:59 PM
To: Lemos, June; Jourdain, Brenda
Subject: FW: Open containers

Please add Jacob's comments to Public comment when you update the agenda.

> On Jan 24, 2019, at 8:52 AM, Jacob Patterson <jacob.patterson.esq@gmail.com> wrote:

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> Tabatha,

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> I think the ordinance update should define some terms. "Open container" is ambiguous, which is why it is often defined. Most jurisdictions define open container as any alcoholic beverage that has a broken seal, has been opened, or has had some of the contents removed/been partially consumed. I would imagine Fort Bragg would just apply a state definition but I am not sure if we incorporated the state vehicle or penal code into our local code (e.g., I think the building code is explicitly incorporated so its defined terms would be incorporated too). The vehicle code describes what is prohibited as "any bottle, can, or other receptacle containing any alcoholic beverage that has been opened or a seal broken, or the contents of which have been partially removed" although it doesn't do it as an explicit definition of "open container" it is just the details of the infraction.

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> I have similar concerns about public place or open to public use? That could conceivably include the inside of buildings that are open to the public, is that the intent?

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> It seems to me there are lots of potential defenses based on ambiguities or based on inequitable enforcement because of different interpretations. I am sure I could come up with some if I was ever cited.

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> Also, do vehicle include motor homes and camper vans? A properly parked motor home or camper van seems like an appropriate place to consume alcohol, people on camping trips do it all the time and I imagine the mobile homeless might too since they live in theirs all the time. The vehicle code recognizes this by explicitly exempting "the living quarters of a housecar or camper" from the general prohibition on open containers in vehicles. That isn't addressed in the draft ordinance.

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> Regards,

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> --Jacob