

CITY ATTORNEY'S OFFICE




Ordinance Updates

March 7, 2022

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PURPOSE

Update Chapter 9 of the municipal code to clarify language:

- harassment,
- trespass,
- interference with a police officer,

and increase the value limit for theft.

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Harassment Law Update

- The Colorado Supreme Court held the phrase "intended to harass" in Section 18-9-111(1)(e), C.R.S., to be unconstitutionally overbroad.
 - *People v. Moreno*, 506 P.3d 849, 857 (Colo. 2022)
- The update removes this phrase from 9-16-90(a)(4) in the Brighton Municipal Code ("BMC").

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Section 9-12-100. Value Limit

- State statute change
 - Class 1 misdemeanor < \$2,000.00
- BMC Current value limit is: \$1,000.00
 - If theft is over limit, case is sent to District Court.
- Ordinance Proposed value limit for theft is: \$2,000.00
 - Would allow Municipal Court to prosecute cases under \$2,000.00

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Section 9-12-10. Acts Constituting Trespass

- (b) A person is deemed to have committed criminal trespass if such person enters or remains in or upon any motor vehicle, motor home, trailer home or trailer of another without permission of the owner. A person unlawfully enters or remains in or upon the motor vehicle, motor home, trailer home or trailer of another:
 - (3) This Subsection (b) does not apply where the entry was made with the intent to steal anything of value, or where the vehicle was parked on the property of the defendant or of the defendant's principal.
- Delete Subsection (3)

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Update: Interfering with Law Enforcement or Police Officer

- Pursuant to Section 16-4-113(2)(b), C.R.S., a municipal court is prohibited from imposing a monetary condition of release for a defendant charged with a municipal offense for which there is no comparable state misdemeanor offense that does not have substantially similar elements to a state misdemeanor offense
- Brighton Municipal Code Section 9-4-40, interfering with arresting police officer, has no comparable state misdemeanor offense because the elements under BMC Section 9-4-40 are not substantially similar to Section 16-4-113(2)(b), C.R.S

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New Section 9-4-40. Interfering with Law Enforcement or Police Officer

- Section 9-4-40. Interfering with law enforcement or police officer
 - (a) A person commits interfering with police officer or law enforcement if the person intentionally obstructs, impairs, or hinders the performance of a governmental function by a public servant by using or threatening to use violence, force, physical interference, or obstacle.
 - (b) A person commits interfering with police officer or law enforcement if the person prevents or attempts to prevent a police officer or law enforcement acting under color of his or her official authority from effecting an arrest of the actor or another by:
 1. The use or threatened use of force or physical violence;
 2. Any other means which creates a substantial risk of causing physical injury to the police officer;
 - or
 3. Fleeing from the police officer after having been ordered to stop in a manner that would indicate to a reasonable person that the police officer was ordering such person to stop.

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Options for City Council

Brighton City Council has the following options in this matter:

- Approve the Ordinance as drafted.
- Amend the Ordinance.
- Deny the Ordinance as drafted.
- Continue the item to be heard at a later, specified date.

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