



Criminal Code Update

CITY COUNCIL MEETING – February 3, 2026

City Staff Representatives:

James Gallagher, Assistant City Attorney I

Michael Davis, Assistant City Attorney II

Department:

City Attorney's Office

PURPOSE



To discuss updates to the *Brighton Municipal Code* with respect to its general penalty and criminal code sections and to align with the recent Colorado Supreme Court ruling.

Brighton's Current General Penalty

Maximum Penalty
Up to 364 days in jail;
Up to a \$2,650 fine; or
Both

In re People v. Camp

The Colorado Supreme Court held that while cities may charge individuals with offenses that have comparable state offenses in municipal courts, the defendants in municipal courts may not be subjected to penalties that exceed the state caps for the comparable state offenses.

City Attorney's Office

- Six months spent comparing every criminal municipal offense with the comparable state offense.
- Analyzed *In re People v. Camp*.
- Held meetings to discuss impact of the Colorado Supreme Court decision.
- Re-analyzed every criminal municipal offense with the comparable state offense in light of the *In re People v. Camp* opinion.

Municipal v. State Example

Disorderly Conduct	
B.M.C. § 9-16-20(1)	C.R.S. § 18-9-106(1)(a)
<p>A person commits disorderly conduct if he or she intentionally, knowingly, or recklessly:</p> <p>(1) Makes a coarse and obviously offensive utterance, gesture, or display in a public place and the utterance, gesture, or display tends to incite an immediate breach of the peace; or</p>	<p>(1) A person commits disorderly conduct if he or she intentionally, knowingly, or recklessly:</p> <p>(a) Makes a coarse and obviously offensive utterance, gesture, or display in a public place and the utterance, gesture, or display tends to incite an immediate breach of the peace</p>

Municipal v. State Example

Disorderly Conduct	
B.M.C. § 9-16-20(5)	C.R.S. § 18-9-106(1)(e)
Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that he or she is armed with a deadly weapon in a public place in a manner calculated to alarm.	Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that he or she is armed with a deadly weapon in a public place in a manner calculated to alarm.

Municipal v. State Example

Theft by Shoplifting v. Theft by Concealment of Goods

B.M.C. § 9-12-80(b)

It is unlawful for any person to conceal, or to aid, abet or assist another person in concealing unpurchased goods, products or merchandise that are owned, held or displayed for sale by any retail outlet, store or other mercantile establishment, with the intent to avoid payment therefor. Concealment (whether such concealment is on a person or otherwise, and whether such concealment is on or off the premises of such store or mercantile establishment) shall constitute prima facie evidence that such person intended to avoid payment therefor.

C.R.S. § 18-4-406

If any person willfully conceals unpurchased goods, wares, or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment be on his own person or otherwise and whether on or off the premises of said store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft.

New Penalty Classification

Class 1 Misdemeanor	Class 2 Misdemeanor	Petty Offense	General Penalty
Up to 364 days imprisonment, not more than a \$1,000 fine, or both.	Up to 120 days imprisonment, not more than a \$750 fine, or both.	Up to 10 days imprisonment, not more than a \$300 fine, or both.	Up to 364 days imprisonment, not more than a \$2,650 fine, or both.

Proposed Update to Section 1-24-10

- New penalty classification: class 1 misdemeanors, class 2 misdemeanors, and petty offenses.
- General penalty of 364 days in jail, \$2650 fine, or both, still applies where there is no similar state charge.
- A violation of the Brighton Municipal Code is a civil infraction when specifically listed as a civil infraction.

Amending Article 9 – Criminal Code

- New ordinance references correct penalty classification for each criminal offense that has a comparable state offense.
- When no penalty classification is mentioned, the general penalty will still apply.

Penalty Reference Example

Disorderly Conduct – Sec. 9-16-20(6)-(9)
(6) Any person found in violation of Section 9-16-20(1)-(2) shall be found guilty of a petty offense; except that, if the offense is committed with intent to disrupt, impair, or interfere with a funeral, or with intent to cause severe emotional distress to a person attending a funeral, it is a class 2 misdemeanor.
(7) Any person found in violation of Section 9-16-20(3) shall be found guilty of a petty offense.
(8) Any person found in violation of Section 9-16-20(4) shall be found guilty of a class 1 misdemeanor.
(9) Any person found in violation of Section 9-16-20(5) shall be found guilty of a class 2 misdemeanor.

Penalty Reference Example

Theft by Shoplifting – Sec. 9-12-80(f)

Any person found in violation of this Section 9-12-80 shall be found guilty of a petty offense if the value of the thing involved is less than three hundred dollars.

Any person found in violation of Section 9-12-80 shall be found guilty of a class 2 misdemeanor if the value of the thing involved is three hundred dollars or more but less than one thousand dollars.

Any person found in violation of Section 9-12-80 shall be found guilty of a class 1 misdemeanor if the value of the thing involved is one thousand dollars or more.

Offenses Proposed to be Removed

- Refusing to aid a police officer
- Defacing or damaging posted advertisement or bill
- Theft by rental property
- Theft of food or accommodations
- Intentional bodily injury (converted to assault)
- Bodily injury / criminal negligence

Offenses that Changed

- *Trespass* – mimic state law
- *Theft* – mimic state law
- *Theft by shoplifting* – removed element making it harder to prosecute in municipal court
- *Harassment* – penalty broken up by subsections
- *Impeding or disrupting certain meetings in public buildings* – split up
- *Consumption prohibited* – removed religious request section
- *Firearms prohibited in or upon public facilities* – clarified that the offense applies to City Council chambers

Questions?

