

**TOWN OF MORRISON, COLORADO
BOARD OF TRUSTEES**

ORDINANCE NO. 473

**AN ORDINANCE AMENDING TITLE 4, CHAPTER 1 OF THE MORRISON
MUNICIPAL CODE TO ADD CERTAIN GENERAL OFFENSES**

WHEREAS, the Town of Morrison (“Town”) is a Colorado home rule municipality operating under a Charter approved by the electorate pursuant to Article XX of the Colorado Constitution and governed by its elected Board of Trustees (the “Board”); and

WHEREAS, the Board has authority pursuant to the Home Rule Charter and C.R.S. §31-16-101, et seq. to adopt and enforce all ordinances; and

WHEREAS, in exercise of this authority the Board has previously adopted Chapter 1 of Title 4 of the Morrison Town Code (the “Code”), concerning police regulations and general offenses; and

WHEREAS, the Town Police Department recently reviewed and analyzed certain petty offenses, as well as the implications of enforcing those offenses under Town jurisdiction and through the Town Municipal Court; and

WHEREAS, the Board has considered those recommendations and determines it in the best interests to preserve and maintain the Town’s public health, safety and welfare to amend Title 4, Chapter 1 of the Code by adding certain general offenses to its Code to be violations subject to the jurisdiction of the Town Municipal Court.

NOW, THEREFORE,

BE IT ORDAINED by the board of trustees of the town of Morrison, Colorado

Section 1. Municipal Code amended.

Title 4, Chapter 1, entitled “General Offenses” is hereby amended by the addition of the following sections as follows:

4-1-5: URINATION/DEFECATION IN PUBLIC:

A. Prohibited: It shall be unlawful for a person to urinate, defecate, commit an act of sexual intercourse, or knowingly expose one’s genitals in a public place or where the conduct may reasonably be expected to be viewed by members of the public.

B. Penalty: Any person violating any of the provisions of this section shall, upon being found guilty of such violation, be subject to penalty as provided in section 1-4-1 of this code.

4-1-6: POSSESSION OF DRUG PARAPHERNALIA:

A. Definition:

DRUG PARAPHERNALIA means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the laws of the State of Colorado. "Drug paraphernalia" does not include any marijuana accessories as defined in the Colorado State Constitution.

B. Prohibited: a person commits possession of drug paraphernalia and violates this section if he or she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of the State of Colorado.

C. Penalty: Any person violating any of the provisions of this section shall, upon being found guilty of such violation, be subject to penalty as provided in section 1-4-1 of this code.

4-1-7: THEFT UNDER \$300.00:

A. A person commits theft and violates this section when he or she knowingly obtains, retains, or exercises control over anything of value involving less than \$300 of another without authorization or by threat or deception; or receives, loans money by pawn or pledge on, or disposes of anything of value or belonging to another that he or she knows or believes to have been stolen, and:

1. Intends to deprive the other person permanently of the use or benefit of the thing of value;
2. Knowingly uses, conceals, or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;
3. Uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently of its use or benefit;
4. Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person; or
5. Knowingly retains the thing of value more than seventy-two hours after the agreed-upon time of return in any lease or hire agreement.

B. For the purposes of this section, a thing of value is that of "another" if anyone other than the defendant has a possessory or proprietary interest therein.

C. Penalty: Any person violating any of the provisions of this section shall, upon being found guilty of such violation, be subject to penalty as provided in section 1-4-1 of this code.

4-1-8: CRIMINAL MISCHIEF UNDER \$300.00:

- A. A person commits criminal mischief and violates this section when he or she knowingly damages the real or personal property of one or more other persons, when the aggregate damage to the real or personal property is less than three hundred dollars, including property owned by the person jointly with another person or property owned by the person in which another person has a possessory or proprietary interest, in the course of a single criminal episode.
- B. Penalty: Any person violating any of the provisions of this section shall, upon being found guilty of such violation, be subject to penalty as provided in section 1-4-1 of this code.

4-1-9: DISORDERLY CONDUCT:

- A. A person commits disorderly conduct and violates this section if he or she intentionally, knowingly, or recklessly:
 - 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
 - 2. Makes unreasonable noise in a public place or near a private residence that he has no right to occupy; or
 - 3. Fights with another in a public place except in an amateur or professional contest of athletic skill; or
 - 4. Not being a peace officer, discharges a firearm in a public place except when engaged in lawful target practice or hunting or the ritual discharge of blank ammunition cartridges as an attendee at a funeral for a deceased person who was a veteran of the armed forces of the United States; or
 - 5. 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.
- B. Penalty: Any person violating any of the provisions of this section shall, upon being found guilty of such violation, be subject to penalty as provided in section 1-4-1 of this code.

4-1-10: HARASSMENT:

- A. A person commits harassment and violates this section if, with intent to harass, annoy, or alarm another person, he or she:
 - 1. Strikes, shoves, kicks, or otherwise touches a person or subjects him to physical contact; or

2. In a public place directs obscene language or makes an obscene gesture to or at another person; or
3. Follows a person in or about a public place; or
4. Directly or indirectly initiates communication with a person or directs language toward another person, anonymously or otherwise, by telephone, telephone network, data network, text message, instant message, computer, computer network, computer system, or other interactive electronic medium in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone, computer, computer network, computer system, or other interactive electronic medium that is obscene; or
5. Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation; or
6. Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or
7. Repeatedly insults, taunts, challenges, or makes communications in offensively coarse language to, another in a manner likely to provoke a violent or disorderly response.

B. As used in this section, unless the context otherwise requires, "obscene" means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus, or excretory functions.

C. Penalty: Any person violating any of the provisions of this section shall, upon being found guilty of such violation, be subject to penalty as provided in section 1-4-1 of this code.

4-1-11: TRESPASSING:

- A. A person commits the crime of criminal trespass and violates this section if such person unlawfully enters or remains in or upon premises of another.
- B. Penalty: Any person violating any of the provisions of this section shall, upon being found guilty of such violation, be subject to penalty as provided in section 1-4-1 of this code.

4-1-12: MINOR IN POSSESSION OF ALCOHOL OR MARIJUANA:

A. Definitions:

1. ESTABLISHMENT means a business, firm, enterprise, service or fraternal organization, club, institution, entity, group, or residence; any real property, including buildings and improvements, connected therewith; and any members, employees, and occupants associated therewith.
2. ETHYL ALCOHOL means any substance which is or contains ethyl alcohol.

3. MARIJUANA has the same meaning as in section 16 (2)(f) of article XVIII of the Colorado constitution.
 4. MARIJUANA PARAPHERNALIA has the same meaning as marijuana accessories in section 16 (2)(g) of article XVIII of the Colorado constitution.
 5. POSSESSION OF ETHYL ALCOHOL means that a person has or holds any amount of ethyl alcohol anywhere on his or her person or that a person owns or has custody of ethyl alcohol or has ethyl alcohol within his or her immediate presence and control.
 6. POSSESSION OF MARIJUANA means that a person has or holds any amount of marijuana anywhere on his or her person or that a person owns or has custody of marijuana or has marijuana within his or her immediate presence and control.
 7. PRIVATE PROPERTY means any dwelling and its curtilage which is being used by a natural person or natural persons for habitation and which is not open to the public and privately owned real property which is not open to the public. "Private property" shall not include:
 - (a) Any establishment which has or is required to have a license pursuant to the Colorado Revised Statutes; or
 - (b) Any establishment which sells ethyl alcohol or upon which ethyl alcohol is sold; or
 - (c) Any establishment which leases, rents, or provides accommodations to members of the public generally
- B. It is unlawful and a violation of this section for any person under the age of twenty-one (21) years to possess or consume any ethyl alcohol, marijuana or marijuana paraphernalia anywhere in the Town of Morrison. This provision shall apply regardless of whether any bottle, can or other container for such ethyl alcohol is sealed, unsealed or open.
- C. Illegal possession or consumption of ethyl alcohol or marijuana by an underage person is a strict liability offense.
- D. The possession or consumption of ethyl alcohol or marijuana shall not constitute a violation of this section if such possession or consumption takes place for religious purposes protected by the first amendment to the United States constitution.
- E. Prima facie evidence of a violation of subsection (B) of this section shall consist of:
1. Evidence that the defendant was under twenty-one years of age and possessed or consumed ethyl alcohol or marijuana or possessed marijuana paraphernalia anywhere in the Town of Morrison; or
 2. Evidence that the defendant was under the age of twenty-one years and manifested any of the characteristics commonly associated with ethyl alcohol intoxication or impairment or marijuana impairment while present anywhere in the Town of Morrison.

- F. During any trial for a violation of subsection (B) of this section, any bottle, can, or any other container with labeling indicating the contents of such bottle, can, or container shall be admissible into evidence, and the information contained on any label on such bottle, can, or other container shall be admissible into evidence and shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of ethyl alcohol. A label which identifies the contents of any bottle, can, or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol," or "liquor" shall constitute prima facie evidence that the contents of the bottle, can, or other container was composed in whole or in part of ethyl alcohol.
- G. The qualitative result of an alcohol or marijuana test or tests shall be admissible at the trial of any person charged with a violation of subsection (B) of this section upon a showing that the device or devices used to conduct such test or tests have been approved as accurate in detecting alcohol or marijuana by the executive director of the Department of Public Health and Environment.
- H. Official records of the Department of Public Health and Environment relating to the certification of breath test instruments, certification of operators and operator instructors of breath test instruments, certification of standard solutions, and certification of laboratories shall be official records of the State. Copies of such records, attested by the executive director of the Department of Public Health and Environment or his or her designee and accompanied by a certificate bearing the official seal for said department, which state that the executive director of the department has custody of such records, shall be admissible in all courts of record and shall constitute prima facie evidence of the information contained in such records. The official seal of the department described in this subsection may consist of a rubber stamp producing a facsimile of the seal stamped upon the document.
- I. In any judicial proceeding concerning a charge under subsection (B) of this section, the court shall take judicial notice of methods of testing a person's blood, breath, saliva, or urine for the presence of alcohol or marijuana and of the design and operation of devices certified by the Department of Public Health and Environment for testing a person's blood, breath, saliva, or urine for the presence of alcohol or marijuana. This subsection shall not prevent the necessity of establishing during a trial that the testing devices were working properly and that such testing devices were properly operated. Nothing in this subsection shall preclude a defendant from offering evidence concerning the accuracy of testing devices.
- J. Penalty: Any person violating any of the provisions of this section shall, upon being found guilty of such violation, be subject to penalty as provided in section 1-4-1 of this code.

Section 2. Severability. If any article, section, paragraph, sentence, clause or phrase of this ordinance, or the standards adopted herein is held to be unconstitutional or invalid for any reason, such decision will not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part or parts are declared unconstitutional or invalid.

Section 3. Effective Date. This ordinance shall take effect thirty (30) days after adoption and publication as provided by Section 3.14 of the Home Rule Charter.

INTRODUCED, READ, PASSED AND ADOPTED this 16th day of April, 2019, by a vote of _____ ayes and _____ nays.

TOWN OF MORRISON:

Sean K. Forey, Mayor

ATTEST:

Lyndsey Paavilainen, Town Clerk