

**ORDINANCE NO. 12-13**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES,  
COLORADO AMENDING CHAPTER 10 OF THE CASTLE PINES MUNICIPAL CODE  
TO ADD GENERAL OFFENSES CONCERNING POSSESSION OF MARIJUANA,  
DRUG PARAPHERNALIA, LITTERING, DESTRUCTION OF PROPERTY,  
TRESPASS, AND UNDERAGE POSSESSION OF ALCOHOL**

**WHEREAS**, the City of Castle Pines is authorized, pursuant to C.R.S. § 31-15-103, to make and publish ordinances necessary and proper to provide for the public health, safety, and welfare of the citizens of the City; and

**WHEREAS**, the City Council desires to adopt regulations concerning general offenses related to marijuana possession, underage possession of alcohol, damage to property, and other similar offenses; and

**WHEREAS**, the City Council has determined that it is in the best interest of the citizens of the City to adopt such general offenses as set forth herein below; and

**WHEREAS**, the City finds that the adoption of this Ordinance is a proper exercise of the City's police power and that it is in the best interest of the public health, safety, and welfare of the citizens of the City.

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO:**

**Section 1.** Chapter 10 of the Castle Pines Municipal Code is hereby amended to add the following new articles and sections:

**Article 6. Offenses Related to Marijuana**

**Sec. 10-6-10. Possession of marijuana.**

(a) Prohibitions enumerated.

(1) It shall be unlawful to possess two (2) ounces of marijuana or less. Transferring or dispensing not more than two (2) ounces of marijuana from one (1) person to another, for no consideration, shall be deemed possession and not dispensing or sale thereof.

(2) It is unlawful to openly and publicly display, consume or use up to two (2) ounces of marijuana.

(b) Interpretation. Consumption or use of two (2) ounces or less of marijuana shall be deemed possession thereof.

(c) As used in this Section, *marijuana* means all parts of the plant *cannabis sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and

every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin. It does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination if these items exist apart from any other item defined as *marijuana* in this Subsection. It does not include *marijuana concentrate*, which means hashish, tetrahydrocannabinol, or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinol.

(d) The provisions of this Article shall not apply to a person who possesses or uses marijuana as permitted by state or federal law.

**Sec. 10-6-20. Possession of drug paraphernalia.**

(a) Possession prohibited. It is unlawful to knowingly possess drug paraphernalia.

(b) As used in this Section, *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, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the law. *Drug paraphernalia* includes, but is not limited to:

(1) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

(2) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.

(3) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.

(4) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.

(5) Capsules, balloons, envelopes, baggies, bindles and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.

(6) Containers or other objects used, intended for use or designed for use in storing or concealing controlled substances.

(7) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

a. Water pipes;

b. Carburetion tubes and devices;

- c. Smoking and carburetion masks;
- d. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
- e. Miniature cocaine spoons and cocaine vials;
- f. Chamber pipes;
- g. Carburetor pipes;
- h. Electric pipes;
- i. Air-driven pipes;
- j Bongs; or
- k. Ice pipes or chillers.

(c) Factors determining drug paraphernalia. In determining whether an object is drug paraphernalia, the court, in its discretion, may consider, in addition to all other relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) The proximity of the object to controlled substances.
- (3) The existence of any residue of controlled substance on the object.
- (4) Instructions, oral or written, provided with the object concerning its use.
- (5) Descriptive materials accompanying the object which explain or depict its use.
- (6) National or local advertising concerning its use.
- (7) The existence and scope of legal uses for the object in the community.
- (8) Expert testimony concerning its use.

## **Article 7. Offenses Against Property**

### **Sec. 10-7-10. Damage to property**

(a) Criminal mischief. It shall be unlawful for any person to knowingly damage the real or personal property of one (1) or more other persons in the course of a single criminal episode, where the aggregate damage to the real or personal property is less than one thousand dollars (\$1,000.00).

(b) Damage to public property. It shall be unlawful for any person to either willfully, maliciously, wantonly, negligently or in any other manner injure or destroy real property or improvements thereto, or moveable or personal property, belonging to the City.

(c) Defacing public and private property. It shall be unlawful for any person to deface or cause, aid in or permit the defacing of public or private property without the consent of the owner by any method of defacement, including but not limited to painting, drawing, writing or otherwise marring the surface of the property by use of paint, spray paint, ink or any other substance or object. Any person convicted of violating this Subsection may be ordered by the court to personally make repairs to any property damaged, or properties similarly damaged, if possible.

**Sec. 10-7-20. Trespass.**

(a) Events of trespass enumerated. It is unlawful to knowingly:

(1) Enter, remain upon or refuse to leave any private property of another, posted with signs visible to ordinarily observant persons entering upon the property or posted at reasonable intervals along the property boundary prohibiting trespassing;

(2) Enter, remain upon or refuse to leave any private property of another when the owner or person responsible for the care of the property has given oral or written notice that such entry or continued presence is prohibited;

(3) Enter, remain at or refuse to leave any private property when immediately before the entry, remaining or refusal to leave, a police officer or firefighter acting in the course of his or her employment has given a lawful order that such entry or continued presence is prohibited;

(4) Enter, remain upon or refuse to leave or disperse from any public place after being lawfully ordered to disperse, leave or not enter by any police officer or firefighter;

(5) Enter, remain upon or refuse to leave property used for education by any parochial school, private school or public school district after a principal, teacher, staff member or person authorized to maintain and supervise the property has told the defendant to leave or not enter;

(6) Enter or remain in or upon premises which are enclosed in a manner designed to exclude intruders or are fenced; or

(7) Without being licensed, invited by a person with authority or otherwise privileged, enter, remain in or upon premises of another.

(b) Defense. It shall be an affirmative defense that the defendant is licensed, invited by a person with authority or otherwise privileged to so enter or remain.

(c) Definition and interpretation.

(1) As used in this Section, *private property* includes, but is not limited to, private property where the public is a business invitee. A person who enters or remains in or at premises which are open to the public does so with license until such license is withdrawn. A license to enter or remain in a building which is only partly open to the public is not a license to enter or remain in that part of the building which is not open to the public.

(2) A police officer or firefighter gives a lawful order when, in the course of duty, he or she is called upon to make and does make a good faith judgment, based on all circumstances known to him or her that he or she should give the order.

**Sec. 10-7-30. Littering.**

(a) Littering generally. It is unlawful to deposit, throw or leave any litter on any public or private property.

(1) Defenses. It is an affirmative defense that:

a. The defendant deposited, threw or left the litter on property designated by law for the disposal of such material and had authority from the proper public authority to so use the property.

b. The defendant owned or lawfully possessed the property, or first obtained consent or acted under the personal direction of the owner or other person lawfully possessing the property.

c. The litter is placed in a receptacle or container installed on such property for that purpose.

(c) Responsibility of driver of vehicle. Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom.

(d) Definitions. As used in this Section, "litter" shall mean all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description.

**Article 8. Offenses Related to Alcohol**

**Sec. 10-8-10. Underage possession, consumption or sale of alcohol.**

(a) Prohibitions enumerated. It is unlawful for any person:



(1) To sell, serve, give away, dispose of, exchange or deliver or permit the sale, serving, giving or procuring of any alcoholic beverage to or for any person under the age of twenty one (21) years;

(2) To obtain or attempt to obtain any alcoholic beverage by misrepresentation of age or by any other method in any place where alcoholic beverages are sold when such person is under the age of twenty-one (21) years;

(3) To possess or consume alcoholic beverages anywhere in the City, including but not limited to in any public or private place, or in any vehicle, when such person is under twenty-one (21) years of age; or

(4) To permit any person under twenty-one (21) years of age, of whom he or she may be a parent or guardian, to violate this Subsection (a).

(b) Prima facie evidence.

(1) Prima facie evidence of a violation of Subsection (a) above shall consist of:

a. Evidence that the defendant was under the age of twenty-one (21) years and possessed or consumed alcoholic beverages anywhere in the City; or

b. Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with alcohol intoxication or impairment while present anywhere in the City.

(2) Defense.

a. It shall be an affirmative defense that the person under the age of twenty-one (21) years was participating in a religious ceremony or practice, or is participating in a supervised and bona fide investigation conducted by a law enforcement agency.

b. It shall be an affirmative defense that the person under the age of twenty-one (21) years was legally on private property with the knowledge and consent of the owner or legal possessor of such private property and the ethyl alcohol was possessed or consumed with the consent of his or her parent or legal guardian who was present during such possession or consumption.

(e) Presumption. During any trial for a violation of this Article, 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 to determine whether the contents of the bottle, can or other container were composed in whole or in part of 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,"

“gin,” “vodka,” “tequila,” “schnapps,” “brandy,” “cognac,” “liquor,” “cordial,” “alcohol” or similar reference to an alcoholic beverage shall constitute prima facie evidence that the contents of the bottle, can or other container was composed in whole or in part of alcohol.

**Section 2. Codification Amendments.** The codifier of the City’s Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Castle Pines Municipal Code.

**Section 3. Severability.** If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, such validity shall not affect, impair or invalidate any other provisions of this Ordinance, which can be given effect without such invalid provision.

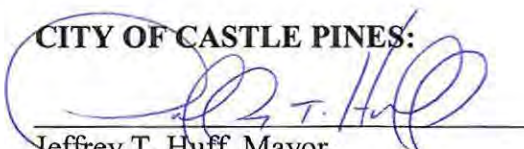
**Section 4. Repeal.** All ordinances or resolutions or parts of ordinances or resolutions inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

**Section 5. Effective Date.** This Ordinance shall become effective thirty (30) days following final adoption and publication pursuant to C.R.S. § 31-16-105.

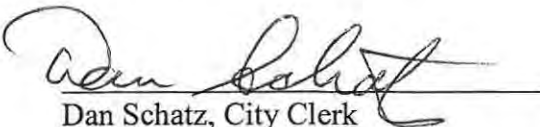
**INTRODUCED, READ, AND PASSED ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 14th day of August, 2012.**

**READ, PASSED, AND ADOPTED ON SECOND READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 11th day of September, 2012.**


CITY OF CASTLE PINES:

  
Jeffrey T. Huff, Mayor

ATTEST:

  
Dan Schatz, City Clerk

Approved as to form:

  
Linda C. Michow, City Attorney

**CERTIFICATION OF PUBLICATION**

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading at a regular meeting of the Castle Pines City Council on August 14, 2012; published by reference by title only in the *Douglas County News-Press*, together with the statement that “[t]he complete text of all ordinances is available through the City Offices and on the City’s official website”; and finally passed and adopted by the City Council on September 11, 2012 following a duly noticed public meeting and ordered published by title only, with amendments if any, one time in the *Douglas County News-Press* on September 20, 2012.

ATTEST:

  
City Clerk or Deputy City Clerk