

ORDINANCE NO. 1

Series 2015

AN ORDINANCE AMENDING THE MODEL TRAFFIC CODE FOR COLORADO, 2010 EDITION, CONCERNING RESERVED PARKING FOR PERSONS WITH DISABILITIES

WHEREAS, Section 42-4-110(1)(b), C.R.S., authorizes local authorities to adopt by reference a model traffic code embodying the rules of the road and vehicle requirements set forth in Article 4 of Title 42, C.R.S., and such additional local regulations as are provided for in Section 42-4-111, C.R.S.; and

WHEREAS, the Town of Breckenridge has adopted (and amended) the Model Traffic Code For Colorado, 2010 edition, as the Traffic Code for the Town; and

WHEREAS, Section 1208 of the Model Traffic Code For Colorado, 2010 edition, deals with parking privileges for persons with disabilities; and

WHEREAS, Section 1208 of the Model Traffic Code For Colorado, 2010 edition, is the local counterpart of Section 42-4-1208, C.R.S.; and

WHEREAS, the Colorado legislature recently adopted and the Governor signed into law HB14-1029, entitled "An Act Concerning a Recodification of Laws Governing Reserved Parking For Persons With Disabilities, And, In Connection Therewith, Making and Reducing Appropriations"; and

WHEREAS, among other actions, HB14-1029 repealed and reacted with changes Section 42-4-1208, C.R.S.; and

WHEREAS, the Town Council finds, determines, and declares that Section 1208 of the Model Traffic Code For Colorado, 2010 edition, should be amended as set forth in this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. The unnumbered paragraph of Section 7-1-2 of the Breckenridge Town Code that amends Section 1208 of the Model Traffic Code For Colorado, 2010 edition, is repealed and readopted with changes to read as follows:

Section 1208 of the adopted code is amended to read in its entirety as follows:

1208. Reserved parking for persons with disabilities - applicability - rules.

(1) Definitions. As used in this section:

(a) "Department of Revenue" means the Colorado Department of Revenue.

(b) "Disability" or "disabled" has the same meaning as set forth in Section 42-3-204, C.R.S.

(c) "Holder" means a person with a disability who has lawfully obtained an identifying plate or placard.

(d) "Identifying figure" has the same meaning as set forth in Section 42-3-204, C.R.S.

(e) "Identifying placard" has the same meaning as set forth in section 42-3-204, C.R.S.

(f) "Identifying plate" has the same meaning as set forth in Section 42-3-204, C.R.S.

(g) "Reserved parking" means a parking space reserved for a person with a disability.

(2) Use of Plate or Placard.

(a) A person with a disability may use reserved parking on public property or private property if the person displays an identifying plate or placard while using reserved parking.

(b) When an identifying placard is used for reserved parking, the driver of the parked motor vehicle shall ensure that the front of the identifying placard is legible and visible through the windshield when viewed from outside the vehicle. The driver shall hang the placard from the rear-view mirror unless a rear-view mirror is not available or the individual is physically unable to hang the placard from the rear-view mirror. If the tag is not hung from the rear-view mirror, the driver shall display it on the dashboard.

(c) A person with a disability who is a resident of a state other than Colorado may use reserved parking in the Town if the motor vehicle displays an identifying plate or placard issued by a state other than Colorado, and if:

(I) The identifying plate or placard is currently valid in the state of issuance and meets the requirements of 23 CFR 1235; and

(II) The holder has not been a resident in Colorado for more than ninety days.

(d) A motor vehicle with an identifying plate or a placard may be parked in public parking areas along public streets or in private parking lots within the Town regardless of any time limitation imposed upon parking in the area; provided, however, no such vehicle may be parked in any reserved parking on any public street within the Town for more than four consecutive hours. The Town shall clearly post the appropriate time limits in the area(s) of the Town where the four hour parking limitation is applicable. The ability to park notwithstanding parking limitations does not apply to areas in which:

(I) Stopping, standing, or parking of all vehicles is prohibited;

(II) Only special vehicles may be parked; or

(III) Parking is not allowed during specific periods of the day in order to accommodate heavy traffic.

(e) (I) The owner of public or private property within the Town may request the installation of official signs or pavement markings identifying reserved parking spaces. The request operates as a waiver of any objection the owner may assert concerning enforcement of this section by a peace officer or a community service officer. A peace officer or a community service officer may enforce this section on private property notwithstanding any provision of law to the contrary.

(II)(A) The number and placement of accessible parking spaces should meet or exceed Section 1106 of Chapter 11 of the 2012 (Second Printing) version of the International Building Code, or any succeeding standard, published by the International Code Council.

(B) The technical standards for accessible parking spaces should meet or exceed section 502 of the 2009 version of ANSI A117.1, or any succeeding standard, published by the International Code Council.

(C) Access aisles should post a "Wheelchair Access Aisle Absolutely No Parking" sign, which blocks neither the access aisle nor accessible routes.

(D) The technical standards for post- or wall-mounted signs indicating accessible parking spaces and van-accessible parking spaces should meet or exceed section 2B.46 concerning parking, standing, and stopping signs and section 2B.47 concerning design of parking, standing, and stopping of the 2009 version of the Manual on Uniform Traffic Control Devices, or any succeeding standard, published by the United States Federal Highway Administration.

(III) The owner of real property within the Town with multi-family residential dwellings affixed and with reserved parking shall retain the reserved parking as commonly owned

for the tenants, owners, or visitors of the individual units within the dwellings. This subparagraph (III) does not prohibit the sale of all commonly owned property so long as the reserved parking is not severed from the other elements.

(IV) A person shall not impose restrictions on the use of disabled parking unless specifically authorized by a statute of Colorado and a resolution or ordinance duly adopted by the Town Council of the Town, and notice of the restriction is prominently posted by a sign clearly visible at the parking space.

(3) Misuse of Reserved Parking.

(a) A person without a disability shall not park in a parking space on public or private property that is clearly identified by an official sign or by visible pavement markings as being reserved parking or as being a passenger loading zone unless:

(I) The person is parking the vehicle for the direct benefit of a person with a disability to enter or exit the vehicle while it is parked in the reserved parking space; and

(II) An identifying plate or placard obtained under or authorized by Section 42-3-204, C.R.S., is displayed in or on the vehicle if the license plate or placard is currently valid or has expired less than one month before the day the person used the reserved parking.

(b)(I) A person, after using a reserved parking space that has a time limit, shall not switch motor vehicles or move the motor vehicle to another reserved parking space within one hundred yards of the original parking space within the same eight hours in order to exceed the time limit.

(II)(A) Parking in a time-limited reserved parking space for more than three hours for at least three days a week for at least two weeks creates a rebuttable presumption that the person is violating this paragraph (b).

(B) This subparagraph (II) does not apply to privately owned parking spaces.

(c) A person shall not use reserved parking for a commercial purpose unless:

(I) The purpose relates to transacting business with a business the reserved parking is intended to serve; or

(II) The owner of private property consents to allow the use.

(d)(I) An employee of an entity shall not use an identifying placard issued to the entity unless the employee is transporting persons with disabilities.

(II) For a violation of this paragraph (d), the chief operations officer within Colorado of the entity to whom the placard or plate was issued and the offending employee are each subject to the penalties established by the municipal judge.

(III) (A) It is an affirmative defense to a violation of this paragraph (d) for the chief operations officer within Colorado that the entity enforces an internal policy controlling access to and use of identifying placards issued to the entity.

(B) If the placard used is expired by operation of Section 42-3-204 (6) (f), C.R.S., it is an affirmative defense to a violation of this paragraph (d) that the person did not know the placard was expired if the person who used the placard was the person to whom it was issued.

(e) (I) A person who violates paragraph (a) of this Subsection (3) shall be punished by a fine of \$100.00; provided, however, that any person who violates paragraph (a) of this Subsection (3) by parking a vehicle owned by or leased to a commercial carrier as defined in subsection (15) of the appendix to this code (Definitions) shall be punished by a fine of \$200.00.

(II) A person who violates paragraphs (b) to (d) of this Subsection (3) shall be punished by a fine of \$100.00..

(4) Blocking Access.

(a) Regardless of whether a person displays an identifying plate or placard, a person shall not park a vehicle so as to block reasonable access to curb ramps, passenger loading zones, or accessible routes, as identified in 28 CFR Part 36 Appendix A, that are clearly identified unless the person is actively loading or unloading a person with a disability.

(b) A person who violates this subsection (4) shall be punished by a fine of \$100.00..

(5) Fraud and Trafficking.

(a) It is unlawful for a person to:

(I) Knowingly and fraudulently obtain, possess, use, or transfer an identifying placard issued to a person with a disability;

(II) Knowingly make, possess, use, alter, or transfer what purports to be, but is not, an identifying placard; or

(III) Knowingly create or use a device intended to give the impression that it is an identifying placard when viewed from outside the vehicle.

(b) It is unlawful and a misdemeanor municipal offense for any person to violate any provision of this subsection (5). Any person convicted of having violated any provision of this subsection (5) shall be punished by a minimum fine of \$999. No portion of such fine may be suspended by the Municipal Judge.

(6) Enforcement of Reserved Parking.

(a) A peace officer or a community service officer may check the identification of a person using an identifying plate or placard in order to determine whether the use is authorized.

(b)(I) A peace officer or a community service officer may confiscate an identifying placard that is being used in violation of this section.

(II) The peace officer or a community service officer shall send a confiscated placard to the Department of Revenue unless it is being held as evidence for prosecution of a violation of this section. If the tag is being held as evidence, the peace officer or a community service officer shall notify the Department of Revenue of the confiscation and pending charges.

(III) The Department of Revenue shall hold and may dispose of a confiscated placard in accordance with Section 42-4-1208(6)(b)(III), C.R.S.

(c) A peace officer or a community service officer may investigate an allegation that a person is violating this section.

(d) A person who observes a violation of this section may submit evidence, including a sworn statement, concerning the violation to any law enforcement agency.

(e)(I) A peace officer or a community service officer may issue a penalty assessment notice for a violation of paragraph (b), (c), or (d) of subsection (3) of this section by sending it by certified mail to the registered owner of the motor vehicle. The officer shall include in the penalty assessment notice the offense or infraction, the time and place where it occurred, and a statement that the payment of the penalty assessment and a surcharge is due within twenty days after the issuance of the notice. The municipal court receives payment of the penalty assessment by the due date if the payment is received or postmarked by the twentieth day after the vehicle owner received the penalty assessment notice.

(II) If the penalty assessment and surcharge are not paid within twenty days after the date the vehicle owner receives the assessment notice specified in subparagraph (I) of this paragraph (e), the peace officer or community service officer who issued the original penalty assessment notice shall file a complaint with a the municipal court and issue and

serve upon the registered owner of the vehicle a summons to appear in court at the time and place specified.

(f)(I) The municipal court shall send certification of the entry of judgment for each violation of paragraph (b), (c), or (d) of subsection (3) of this section to the department.

(II) Upon receipt of certification of an entry of judgment for a violation of paragraph (b), (c), or (d) of subsection (3) of this section, the Department of Revenue shall not register the person's vehicle until all fines imposed for the violations have been paid to the Town as provided in Section 42-4-1208(6)(f)(II), C.R.S.

(III) Upon receipt of certification or independent verification of an entry of judgment, the Department of Revenue shall revoke an identifying plate or placard as provided in section 42-3-204 (7) (d), C.R.S., as provided in Section 42-4-1208(6)(f)(III), C.R.S.

(g)(I) Notwithstanding any other provision of this section to the contrary, a holder is liable for any penalty or fine for any misuse of an identifying plate or placard, including the use of such plate or placard by any person other than a holder, unless the holder furnishes sufficient evidence that the identifying plate or placard was, at the time of the violation, in the care, custody, or control of another person without the holder's knowledge or consent.

(II) A holder may avoid the liability described in subparagraph (I) of this paragraph (g) if, within a reasonable time after notification of the violation, the holder furnishes to the Town prosecutor or the Police Department the name and address of the person who had the care, custody, or control of the identifying plate or placard at the time of the violation or the holder reports the license plate or placard lost or stolen to both the Police Department and the department.

(h) An employer shall not forbid an employee from reporting violations of this section. A person shall not initiate or administer any disciplinary action against an employee because the employee notified the authorities of a possible violation of this section if the employee has a good-faith belief that a violation has occurred.

(i) A landlord shall not retaliate against a tenant because the tenant notified the authorities of a possible violation of this section if the tenant has a good-faith belief that a violation has occurred.

(j) In order to stop a vehicle from blocking access or illegally using reserved parking, a peace officer or a community service officer may order a vehicle that is used to violate this subsection to be towed to an impound lot or a vehicle storage location. The peace officer shall verify that the vehicle has not been stolen and report the fact of the tow to the Department of Revenue in accordance with Section 42-4-1804, C.R.S.

Section 2. The repeal and readoption of Section 1208 of the Model Traffic Code For Colorado, 2010 edition, as provided in this ordinance, shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of Section 1208 of Model Traffic Code For Colorado, 2010, as it existed prior to the this ordinance taking effect.

Section 3. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 4. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

Section 5. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to: (i) Section 42-4-110(1)(a), C.R.S.; (ii) Section 42-4-111(1)(A), C.R.S.; (iii) Section 42-4-1208, C.R.S.; (iv) Section 31-15-103, C.R.S. (concerning municipal police powers); (v) Section 31-15-401, C.R.S.(concerning municipal police powers); (vi) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (vii) the powers contained in the Breckenridge Town Charter.

Section 6. This ordinance shall be published as provided by Section 5.9 of the Breckenridge Town Charter.

Section 7. The ordinance shall not become effective with respect to any state highway located within the corporate limits of the Town of Breckenridge until it has been approved by the Colorado Department of Transportation pursuant to Sections 42-4-110(1)(e) and 43-2-135(1)(g), C.R.S.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 13th day of January, 2015.

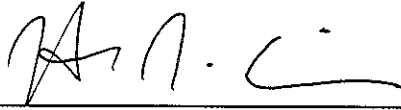
This ordinance was published in full on the Town of Breckenridge website on January 14, January 15, January 16, January 17 and January 18, 2015.

A public hearing on this ordinance was held on January 27, 2015.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 27th day of January, 2015. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE




Helen Cospolich, Town Clerk



John G. Warner, Mayor

APPROVED IN FORM



Town Attorney

1/27/15
Date

This Ordinance was published on the Town of Breckenridge website on January 28, January 29, January 30, January 31 and February 1, 2015. This ordinance shall become effective on March 3, 2015.