

ORDINANCE NO. 32

Series 2015

AN ORDINANCE AMENDING SECTION 6-3C-15 OF THE BRECKENRIDGE TOWN CODE
CONCERNING PANHANDLING AND SOLICITATION

WHEREAS, On June 18, 2015 the United States Supreme Court issued its decision in the case of *Reed v. Town of Gilbert, Arizona*, 135 S.Ct. 2218 (2015); and

WHEREAS, in *Reed v. Town of Gilbert, Arizona* the Supreme Court addressed the requirement of content-neutrality when analyzing government regulations that implicate the First Amendment to the United States Constitution; and

WHEREAS, although *Reed v. Town of Gilbert, Arizona* involved a municipal sign code, the majority's opinion in the case has been extended to invalidate certain provisions of municipal ordinances attempting to regulate panhandling and aggressive solicitation; and

WHEREAS, on September 30, 2015, the United States District Court for the District of Colorado issued an order in the case of *Brown, et al. v City of Grand Junction, Colorado*, Civil Action No. 14-cv-00809-CMA-KLM, invalidating on constitutional grounds certain provisions of the Grand Junction ordinance regulating panhandling and aggressive solicitation that are similar to the Town's panhandling and aggressive solicitation ordinance; and

WHEREAS, it is necessary for the Town's ordinance regulating panhandling and aggressive solicitation to be amended to conform to the new legal standard that applies to such municipal ordinances.

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

Section 1. Section 6-3C-15 of the Breckenridge Town Code is amended to read as follows:

6-3C-15: PANHANDLING AND SOLICITATION:

A. Definitions: For the purpose of this section:

- AGGRESSIVE PANHANDLING:
1. Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting;
 2. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;
 3. Using violent or threatening gestures toward a person solicited;
 4. Using profane or abusive language which is likely to provoke an immediate violent reaction from the person being solicited;
 5. Approaching or following a person for solicitation as part of a group of two (2) or more persons, in a manner and with conduct, words, or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or damage to or loss of property or otherwise to be intimidated into giving money or other thing of value.

PUBLIC PLACE: A place to which the public or a substantial group of persons has access, including, but not limited to, any street, sidewalk, highway,

parking lot, plaza, transportation facility, school, place of amusement, park, or playground.

SOLICITING OR PANHANDLING:

For purposes of this section are interchangeable and mean any solicitation made in person requesting an immediate donation of money. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, is a donation for the purpose of this section. Panhandling does not include passively standing or sitting with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person.

B. Prohibited Acts:

1. No person shall engage in aggressive panhandling in any public place.
2. No person shall panhandle on private or residential property after having been asked to leave or refrain from panhandling by the owner or other person lawfully in possession of such property.

C. Penalties: Every person convicted of a violation of this section shall be punished as provided in Section 1-4-1 of this Code.

Section 2. Except as specifically amended by this ordinance, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 3. The Town Council finds, determines, and declares that it has the power to adopt this ordinance pursuant to: (i) Section 31-15-103, C.R.S. (concerning municipal police powers); (ii) Section 31-15-401, C.R.S. (concerning municipal police powers); (iii) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (iv) the powers contained in the Breckenridge Town Charter.

Section 4. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

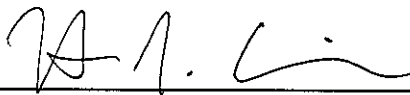
INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 10th day of November, 2015.

This ordinance was published in full on the Town of Breckenridge website on November 11, November 12, November 13, November 14 and November 15, 2015.

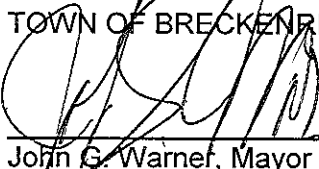
A public hearing on this ordinance was held on November 24, 2015.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 24th day of November, 2015. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:




Helen Cospolich, Town Clerk

TOWN OF BRECKENRIDGE


John G. Warner, Mayor

APPROVED IN FORM



Town Attorney

11/24/15

Date

This Ordinance was published on the Town of Breckenridge website on November 25, November 26, November 27, November 28 and November 29, 2015. This ordinance shall become effective on December 29, 2015.