

**ORDINANCE NO. 14**

**SERIES 2016**

**AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL ADDING A NEW CHAPTER 10, ARTICLE 12 TO THE CRESTED BUTTE MUNICIPAL CODE FOR THE PURPOSE OF REGULATING CERTAIN TYPES OF PANHANDLING**

WHEREAS, the Town of Crested Butte, Colorado ("**Town**") is a home rule municipality duly and regularly organized and now validly existing as a body corporate and public under and by virtue of the Colorado Constitution and laws of the State of Colorado;

WHEREAS, the Town has the authority and power to regulate disorderly persons in order to maintain order in public places for its residents and visitors, pursuant to, *inter alia*, the following authorities: (1) Article XX of the Colorado Constitution; (2) the Home Rule Charter of the Town of Crested Butte; (3) the Crested Butte Municipal Code; (4) the provisions of the Colorado Revised Statutes, including C.R.S. § 31-15-401, *et seq.*, General Police Powers of a Municipality, and C.R.S. § 16-13-301 *et seq.*, Colorado criminal provisions related to nuisances; and (5) any and all other powers granted to the Town authorized by statute or by common law for the regulation of disorderly persons or disorderly behavior;

WHEREAS, the Town has the authority and power to regulate persons in connection with the use of sidewalks, streets, parks and other public places;

WHEREAS, the Town has a valid governmental objective and interest in protecting the safety and convenience of its residents and visitors using public places;

WHEREAS, the Town makes no distinction nor expresses a basis of opinion as to any message or content conveyed or delivered with solicitation or panhandling, but rather is attempting to regulate behavior based upon the time, place and manner of the conduct of the solicitor or panhandler and not upon the content of the message such person carry;

WHEREAS, the Town, by way of the regulations adopted in this Ordinance, intends to leave sufficient alternative means and methods of communication available to all residents and visitors of Crested Butte, provided that such conduct is consistent with and not in violation of the limited panhandling prohibitions imposed by such regulations;

WHEREAS, the Town, by way of the regulations adopted in this Ordinance, intends to regulate panhandling activities through reasonable time, place and manner restrictions, that will serve to protect property, public safety and will otherwise benefit the general health, safety and welfare of the residents and visitors of Crested Butte;

WHEREAS, the Town does not intend, by enactment of the regulations adopted in this Ordinance, to interfere with the exercise of constitutionally protected rights of freedom of

expression, conduct, speech or association, and the Town Council recognizes the constitutional rights of every person to express beliefs and opinions on any subject and to lawfully associate with other persons;

WHEREAS, the Town, by enactment of the regulations adopted in this Ordinance, does not intend to interfere with or limit the rights of private property owners to otherwise license and regulate solicitation activities on private property; and

WHEREAS, for the foregoing reasons, the Town Council hereby finds that the regulations adopted in this Ordinance, and the amendments to the Code proposed hereby, are in the best interest of general health, safety and welfare of the residents and visitors of Crested Butte.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

**Section 1. Adding a New Chapter 10, Article 12 to the Code.** A new Article 12 is added to Chapter 10 of the Code and shall read as follows:

**“Pandhandling**

**Sec. 10-12-10. Purpose.**

The Town has the authority and power to regulate behavior in the use of sidewalks, streets, parks and other public places by panhandlers and to otherwise protect the safety and convenience of its residents and visitors and to maintain order in public places from panhandling activities, all of which are valid and reasonable governmental objectives and interests. The Town makes no distinction nor expresses a basis of opinion as to any message or content conveyed or delivered with solicitation or panhandling, but rather is attempting by the provisions of this Article to regulate the time, place and manner of the conduct of the solicitor or panhandler and not upon the content of the message they carry. Specifically, the Town intends by this Article to regulate panhandling activities through reasonable time, place and manner restrictions that will serve to protect property, public safety and will otherwise benefit the general health, safety and welfare of residents and visitors of Crested Butte.

**Sec. 10-12-20. Definitions.**

The following terms shall have the meanings ascribed thereto throughout this Article:

*Coercive* shall mean to compel another person by physical force to do what his or her free will would refuse.

*Intimidating* shall mean conduct that puts the fear of bodily harm in another person.

*Obscene* shall mean a blatantly offensive description of a sexual act or solicitation to commit a sexual act, whether or not such sexual act is normal or perverted, actual or

simulated, including but not limited to masturbation, cunnilingus, fellatio, anilingus or human excretory functions.

*Panhandle* or *Panhandling* shall include using the spoken, singing, written or printed word, or any bodily gestures, signs or other means of communicating with the purpose of obtaining a gift of money or any other thing of value.

*Public Place* shall mean a place where a governmental entity has title or right of access, to which the public also has access, including but not limited to any sidewalk, street, alley, bridges, buildings, driveways, highway, public parking lot or public parking garages, plaza, transportation facility, school, place of amusement, park, playground or restrooms.

*Sidewalk* shall mean that portion of a street between the curb line and the adjacent property lines intended for the use by the public.

*Threatening* shall mean conduct that expresses an avowed present determination or intent to inflict physical or other harm or injury to another person presently or in the future.

**Sec. 10-12-30. Prohibited Panhandling Activities.**

It shall be unlawful for any person to panhandle if such panhandling involves the following prohibited conduct:

(1) If the person panhandling engages in conduct toward the person solicited that is coercive, intimidating, obscene or threatening and that causes the person solicited to reasonably fear for his or her safety.

(2) If the person panhandling directs fighting words to the person solicited that are likely to create an imminent breach of the peace.

(3) If the person panhandling touches or grabs any person being solicited.

(4) If the person panhandles in such a manner so as to intentionally obstruct or block a sidewalk, doorway, entryway or other passageway in a public place used by the public or obstructs the passage of a person solicited or requires the person solicited to take evasive action to avoid physical contact with the person panhandling or with any other person.

**Sec. 10-12-40. Violation.**

A violation of this Article shall be enforced pursuant to Chapter 1, Article 4 of the Code.”

**Section 2. Deletion of Section 10-5-40(b)(1) from the Code.** Section 10-5-40(b)(1) is hereby deleted in its entirety from the Code with the subsections appearing thereafter renumbered accordingly.

**Section 3. Severability.** If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

**Section 4. Savings Clause.** Except as amended hereby, the Crested Butte Municipal Code shall remain valid and in full force and effect. Any provision of the Code that is in conflict with this ordinance is hereby repealed as of the effective date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 7<sup>th</sup> DAY OF November, 2016.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 21<sup>st</sup> DAY OF November, 2016.

TOWN OF CRESTED BUTTE, COLORADO

By: Glenn Michel  
Glenn Michel, Mayor

ATTEST:  
Lynelle Stanford  
Lynelle Stanford, Town Clerk

[SEAL]

