



City of Broken Arrow

Legislation Details (With Text)

File #:	18-577	Name:	
Type:	General Business	Status:	Adoption
File created:	5/8/2018	In control:	Broken Arrow City Council
On agenda:	5/15/2018	Final action:	5/15/2018
Title:	Consideration, discussion, and possible preview of an ordinance amending Chapter 16, Offenses-MISCELLANEOUS, Article I, IN GENERAL, Section 16-19, Begging, of the Broken Arrow Code; specifically to come in compliance with the United States Supreme Court ruling in Reed v. Town of Gilbert, Ariz., 135 S.Ct. 2218 (2015), repealing all ordinances to the contrary; and declaring an emergency		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	1. Preview Ordinance		

Date	Ver.	Action By	Action	Result
5/15/2018	1	Broken Arrow City Council	set for adoption at the next meeting	Pass

Broken Arrow City Council Meeting of: 05-15-2018

Title:

Consideration, discussion, and possible preview of an ordinance amending Chapter 16, Offenses-MISCELLANEOUS, Article I, IN GENERAL, Section 16-19, Begging, of the Broken Arrow Code; specifically to come in compliance with the United States Supreme Court ruling in Reed v. Town of Gilbert, Ariz., 135 S.Ct. 2218 (2015), repealing all ordinances to the contrary; and declaring an emergency

Background:

The City of Broken Arrow Legal Department is aware the United States Supreme Court in *Reed v. Town of Gilbert, Ariz.*, 135 S.Ct. 2218 (2015), altered the First Amendment analysis of “content-based” and “content-neutral” regulation of signs in significant ways. Specifically, the Supreme Court has ruled begging or panhandling is a First Amendment right.

The Legal Department has researched the City of Broken Arrow’s Ordinance on begging and panhandling, and it discovered the ordinance is not in compliance with recent precedence set by the United Supreme Court. If an individual was to challenge the legality of Broken Arrow’s Ordinance addressing begging or panhandling, the Ordinance must pass a strict scrutiny test. A strict scrutiny test would require the government to prove that its begging or panhandling ordinance was narrowly tailored to further a significant government interest and that the ordinance left open and ample alternative channels of communication. As Broken Arrow Ordinance Section 16-19 currently stands, it would not survive a strict scrutiny First Amendment challenge.

Laws that prohibit aggressive begging/panhandling, begging/panhandling in specific areas, or begging/panhandling which interferes with pedestrians and vehicles, are likely to survive a Constitutional First Amendment challenge. Therefore, given that the current Broken Arrow Ordinance on begging and panhandling prohibits begging in general, the Legal Department suggests the ordinance be amended to address aggressive

begging so it would survive any potential Constitutional challenge.

Cost: None

Funding Source: No Source

Requested By: Trevor Dennis, Acting City Attorney

Approved By: Michael L. Spurgeon, City Manager

Attachments: Preview Ordinance

Recommendation:

Preview Ordinance and set for adoption.