

**STATE OF COLORADO  
COUNTY OF GILPIN  
CITY OF BLACK HAWK**

**COUNCIL BILL NUMBER: CB13**

**ORDINANCE NUMBER: 2019-13**

**TITLE: A BILL FOR AN ORDINANCE AMENDING THE BLACK HAWK MUNICIPAL CODE BY THE ADDITION THERETO OF A NEW SECTION 10-136 PROHIBITING SITTING OR LYING DOWN ON PUBLIC SIDEWALKS AND RIGHTS-OF-WAY IN DESIGNATED AREAS**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLACK HAWK, GILPIN COUNTY:

Section 1. The Black Hawk Municipal Code is amended by the addition thereto of a new Section 10-136 to read as follows:

**Sec. 10-136. Sitting or Lying Down in Designated Areas.**

(a) Legislative Findings. The City Council finds and determines that intentionally blocking, obstructing or interfering with the safe or free passage of a pedestrian or vehicle by any means in high traffic areas, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid contact is a public safety concern without regard to the speech of the individual who is intentionally blocking, obstructing or interfering with the safe or free passage of a pedestrian or vehicle, and that such conduct should be regulated to address the public safety concerns caused by individuals taking evasive action to avoid such contact.

(b) Unlawful. In all non-residential districts, as the same are designated by the City of Black Hawk Zoning Map, it shall be unlawful for any person to sit, kneel, recline or lie down upon the surface of any public right-of-way, or upon any bedding, chair, stool, or any other object placed upon the surface of the public right-of-way, between the hours of seven o'clock (7:00) a.m. and three o'clock (3:00) a.m.

(c) Definitions. For the purposes of this Section, the term below shall have the following meaning:

"Public right-of-way" means any street, sidewalk, trail, path alley, parkway, curb, median, jersey wall, traffic island or any other publicly owned property intended or used for pedestrian, recreational or vehicular travel.

(d) Defense. It is an affirmative defense to a violation of this Section that a person:

(1) Sits, kneels, reclines or lies down upon the public right-of-way due to a medical emergency.

(2) As a result of a medically confirmable disability, utilizes a wheelchair, walker or other similar mobility supporting device to move about the public right-of-way.

(3) Is operating or patronizing a commercial establishment located in the public right-of-way pursuant to any permit or license issued by the City.

(4) Sits or kneels on the public right-of-way when attending a parade, festival, performance, rally, demonstration, meeting or similar special event conducted in the public right-of-way pursuant to any permit or license issued by the City.

(5) Sits upon an object intended for sitting in the public right-of-way furnished by the City or by any other public agency.

(6) Sits upon a public sidewalk at or near a transit stop while waiting for public transportation.

(e) Notification by Law Enforcement. No law enforcement officer shall issue a citation, make an arrest, or otherwise enforce this Section against any person, unless the person engages in conduct prohibited by this Section after having first been notified by a law enforcement officer that the conduct violates this Section.

(f) Penalties.

(1) Upon a conviction for a first offense for violating this Section, the court shall impose a fine of not more than five hundred dollars (\$500.00) or a sentence of probation, or both.

(2) Upon a conviction for a second or subsequent offense for violating this Section, the court shall impose a fine of not more than five hundred dollars (\$500.00), or imprisonment in jail for a period of not more than ninety (90) days, or a sentence of probation, or by a combination of fine, imprisonment, and a sentence of probation.

Section 2. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a

court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 26<sup>th</sup> day of June, 2019.

  
David D. Spellman, Mayor

ATTEST:

  
Melissa A. Greiner, CMC, City Clerk