

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

COUNCIL BILL NUMBER: CB12

ORDINANCE NUMBER: 2019-12

TITLE: A BILL FOR AN ORDINANCE ADDING A NEW ARTICLE XV TO CHAPTER 10 OF THE BLACK HAWK MUNICIPAL CODE REGARDING UNLAWFUL CONDUCT ON PUBLIC PROPERTY

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

Section 1. The City of Black Hawk Municipal Code is amended by the addition thereto of a new Article XV of Chapter 10 to read as follows:

**ARTICLE XV
Unlawful Conduct on Public Property**

Sec. 10-271. Legislative Intent.

It is the intent of this Article to protect the public health, safety and welfare by prohibiting undesirable activities or conduct on public property which may reasonably expect to substantially interfere with the public's use and enjoyment of such public places.

Sec. 10-272. Definitions.

(a) **"Public Property"** means any street, alley, sidewalk, pedestrian or transit mall, bike path, greenway, recreational trail, open space, or any other structure or area encompassed within the public right-of-way; any park, parkway, mountain park, or other recreation facility; or any other grounds, buildings, or other facilities owned or leased by the City or by any other public owner, regardless of whether such public property is vacant or occupied and actively used for any public purpose.

(b) **"Park Facilities"** means all parks located within the municipal boundaries of the City.

(c) **"Camp"** means to reside or dwell temporarily in a place, with shelter. The term "shelter" includes, without limitation, any tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of cover or protection from the elements other than clothing. The term "reside or dwell" includes, without limitation, conducting such activities as eating, sleeping, or the storage of personal possessions.

Sec. 10-173. Unlawful Conduct of Public Property.

(a) It is unlawful for any person to enter or remain on any public property owned, operated or controlled by the City of Black Hawk or to conduct himself or herself on the same in violation of any order, rule, or regulation concerning any matter prescribed in this subsection (a), limiting or prohibiting the use or activities or conduct in such public building or on such public property, issued by the City Council, the City Manager or any other official of the City of Black Hawk designated by City Council by ordinance or resolution and having the power of control, management, or supervision of the building or property. In addition to any authority granted by any other law, City Council, the City Manager or any other official designated by the City Manager under this subsection may adopt such orders, rules, or regulations as are reasonably necessary for the administration, protection, and maintenance of such public buildings and property, specifically, orders, rules, and regulations upon the following matters:

- (1) Preservation of property, vegetation, wildlife, signs, markers, statues, buildings and grounds, and other structures, and any object of scientific, historical, or scenic interest;
- (2) Restriction or limitation of the use of such public property as to time, manner, or permitted activities; and
- (3) Prohibition of activities or conduct on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a general nuisance.

(b) No conviction may be obtained under this Section unless notice of such limitations or prohibitions is prominently posted at all public entrances to such property, or unless such notice is actually first given to the person by the City Manager, by any other official designated by City Council under subsection (a) of this Section, or by any law enforcement officer of the City of Black Hawk.

(c) All officers of the Black Hawk City Police Department shall have the authority to communicate to any person the terms of any orders, rules or regulations adopted pursuant to subsection (a) of this Section and the additional authority to enforce subsection (a) and all orders, rules and regulations adopted pursuant to subsection (a) by removing any violator from the public place where the violation occurred and by issuing and serving upon such violator a summons and complaint or such other charging documents as are appropriate.

Sec. 10-174. Unauthorized Camping on Public Property Prohibited.

(a) It shall be unlawful for any person to camp upon any public property, except in any location where camping has been expressly allowed by the City of Black Hawk.

(b) No officers of the Black Hawk City Police Department shall issue a citation, make an arrest or otherwise enforce this Section against any person unless:

(1) The officer orally requests or orders the person to refrain from the alleged violation of this Section and, if the person fails to comply after receiving the oral request or order, the officer tenders a written request or order to the person warning that if the person fails to comply the person may be cited or arrested for a violation of this Section; and

(2) The officer attempts to ascertain whether the person is in need of medical or human services assistance, including, but not limited to, mental health treatment, drug or alcohol rehabilitation, or homeless services assistance. If the officer determines that the person may be in need of medical or human services assistance, the officer shall make reasonable efforts to contact and obtain the assistance of a designated human service outreach worker, who in turn shall assess the needs of the person and, if warranted, direct the person to an appropriate provider of medical or human services assistance in lieu of the person being cited or arrested for a violation of this Section. If the officer is unable to obtain the assistance of a human services outreach worker, if the human services outreach worker determines that the person is not in need of medical or human services assistance, or if the person refuses to cooperate with the direction of the human services outreach worker, the officer may proceed to cite or arrest the person for a violation of this section so long as the warnings required by paragraph (1) of this subsection have been previously given.

(c) Cleanup of Unauthorized Camping Sites. Upon violation of this Section, officers may remove and store all unclaimed personal property found at an unauthorized camping site. Illegal items, such as illicit drugs and any items that reasonably appear to be evidence of a crime will be turned over to the appropriate law enforcement agency. Any items otherwise not regarded as having apparent utility or that are in an unsanitary condition will be immediately discarded. Removal of personal property under this Section shall be executed pursuant to the following procedure:

(1) At least seventy-two (72) hours prior to the proposed cleanup date, the City will post a notice stating the date and time of the cleanup.

The notice will be posted in the general vicinity of the personal property to be removed.

- (2) In the event of the existence of a condition posing an imminent danger of damage or injury to or loss of life, limb, property or health, the City shall provide a notice of cleanup no more than twenty-four (24) hours prior to the proposed cleanup date.
- (3) Personal property removed from illegal camp sites shall be stored in a secure location and shall be held for a period of at least thirty (30) days from the date the cleanup occurred.
- (4) An individual may claim ownership of an item of personal property within thirty (30) days from the last date that the cleanup occurred. The City will not return items reasonably believed to be marijuana or products containing marijuana, and will dispose of such products in accordance with its Black Hawk City Police Department policies procedures for the disposal of illicit substances.
- (5) After the thirty (30) day storage period elapses, unclaimed personal property will be disposed of by either discarding, recycling, or otherwise disposing of such items as determined by the Chief of Police.

Sec. 10-175. Violations and Penalties.

Any person who violates any Section of this Article is guilty of a misdemeanor and a public nuisance pursuant to Section 7-2 of this Code. Any persons convicted of a violation of any section of this article shall be punished as provided in Section 1-73(a) of this Code, and may also be punished pursuant to the provisions of Article 1 of Chapter 7 as the same may be applicable.

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 26th day of June, 2019.


David D. Spellman, Mayor

ATTEST:


Melissa A. Greiner, CMC, City Clerk