

STATE OF COLORADO  
COUNTY OF GILPIN  
CITY OF BLACK HAWK

COUNCIL BILL NUMBER: CB8

ORDINANCE NUMBER: 2016-8

**TITLE: AN ORDINANCE AMENDING CHAPTER 10 OF THE BLACK HAWK MUNICIPAL CODE BY THE ADDITION OF NEW ARTICLE XIV PROHIBITING SEXUAL PREDATORS AND CERTAIN SEX OFFENDERS FROM ESTABLISHING RESIDENCY NEAR AREAS WHERE CHILDREN CONGREGATE**

WHEREAS, the City Council of the City of Black Hawk has taken note of numerous occurrences in which convicted sexual predators and certain sex offenders who have been released from custody repeat the unlawful acts for which they had been convicted;

WHEREAS, the City Council of the City of Black Hawk finds that the recidivism rate for released sexual predators and the specified sex offenders is high, especially for those who commit their crimes against children;

WHEREAS, this Ordinance is narrowly tailored to address sexual predators as defined by Colorado law at § 18-3-414.5, C.R.S., and those sexual offenders required to register under the Colorado Sex Offender Registration Act, C.R.S. § 16-22-101, *et seq.*, due to having a felony conviction, multiple victims, or multiple convictions;

WHEREAS, children congregate more frequently without adult supervision at parks, open space and school bus stops; and

WHEREAS, the City Council desires to provide for the maximum protection of the health, safety and welfare of all citizens in the City;

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

Section 1. Chapter 10 of the Black Hawk Municipal Code shall be amended by the addition of new Article XIV, which shall read as follows:

## ARTICLE XIV

### Prohibited Residency of Sex Offenders

#### Sec. 10-261. Findings and Intent.

The City Council hereby finds that sexual predators and the specified sex offenders who use physical violence or who prey on children present an extreme threat to the public safety. Sexual predators and the specified sex offenders have a high rate of recidivism, making the cost of sex offender victimization to society at large extremely high. Removing such offenders from regular proximity to places where children are located and limiting the frequency of contact is likely to reduce the risk of an offense. This Chapter is intended to serve the City's compelling interest to promote, protect and improve the public health, safety and welfare by creating areas, around locations where children regularly congregate in concentrated numbers, where sexual predators and specified sexual offenders are prohibited from establishing temporary or permanent residence.

#### Sec. 10-262. Definitions.

For purposes of this Article XIV, the following terms shall have the following meanings:

(a) Permanent Residence: A place where a person abides, lodges, or resides for five (5) or more consecutive days.

(b) Temporary Residence: A place where a person abides, lodges, or resides for a period of five (5) or more days in the aggregate during any calendar year and which is not the person's permanent residence, or a place where a person routinely abides, lodges, or resides for a period of five (5) or more consecutive or nonconsecutive days in any month and which is not the person's permanent address.

#### Sec. 10-263. Prohibitions.

(a) It shall be unlawful for a person to establish a permanent residence or temporary residence within one thousand feet (1,000') of any park, City-owned open space, or any designated public or private school bus stop when a person meets either of the following criteria:

- (1) The person has been found to be a sexually violent predator pursuant to Section 18-3-414.5 C.R.S;
- (2) The person is required to register under the Colorado Sex Offender Registration Act, C.R.S. Section 16-22-101, *et. seq.*, because of being convicted of a felony for an offense requiring registration;

having multiple convictions for offenses requiring registration; or having offense(s) requiring registration involving multiple victims.

(b) It is unlawful to let or rent any portion of any property, place, structure, trailer or other vehicle with the knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to this Article XIV.

**Sec. 10-264. Exceptions.**

A person is not guilty of a violation of this Article XIV if:

(a) The person established the permanent or temporary residence prior to the effective date of this Article XIV; provided, however, that this exception shall not apply if the person committed the offense for which registration under the Colorado Sex Offender Registration Act is required after the effective date of this Article;

(b) The person is placed in the residence pursuant to a State of Colorado foster care program; or

(c) The park, City-owned open space, or designated public or private school bus stop was opened after the person established the permanent or temporary residence, and the park, City-owned open space or bus stop is not replacing an existing park, City-owned open space or designated public or private school bus stop.

**Sec. 10-265. Measurement.**

For purposes of determining the minimum distance separation required herein, the measurement shall be made by following a straight line from the outer property line of the property on which the park, City-owned open space or designated public or private school bus stop is located to the nearest point on the outer property line of the property on which the permanent or temporary residence is located.

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

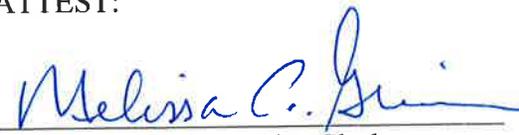
court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

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 11<sup>th</sup> day of May, 2016.

  
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David D. Spellman, Mayor

ATTEST:

  
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Melissa A. Greiner, City Clerk

