

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

**COUNCIL BILL NUMBER: CB18**

**ORDINANCE NUMBER: 2022-18**

**TITLE: AN ORDINANCE AMENDING THE BLACK HAWK MUNICIPAL CODE TO ESTABLISH AN EXEMPTION FROM THE CITY'S SALES AND USE TAX FOR CERTAIN RETAIL DELIVERY FEES AND CARRYOUT BAG FEES ENACTED BY THE STATE OF COLORADO**

WHEREAS, the City of Black Hawk, is a home rule municipality, organized and existing under Article XX, Section 6 of the Colorado Constitution;

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution, the right to enact, administer and enforce sales and use taxes is clearly within the constitutional grant of power to the City and is necessary to raise revenue with which to conduct the affairs and render the services performed by the City;

WHEREAS, pursuant to such authority, the City has adopted and enacted a Sales Tax Code and a Use Tax Code, under which City sales and use tax is levied;

WHEREAS, the City does not wish to impose local sales tax on retail delivery fees and carryout bag fees enacted by the State of Colorado that would otherwise be taxable under the Black Hawk Municipal Code; and

WHEREAS, the City adopts this ordinance with the intent to exempt such fees from local sales and use tax.

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

Section 1. Section 4-43 of the City of Black Hawk Municipal Code is amended by the addition thereto of new subsections (bb) and (cc) to read as follows:

(bb) The retail delivery fee consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805 (5)(g.7), and the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-4-1303(8), as such sections existed on June 17, 2021; and

(cc) The carryout bag fee imposed in C.R.S. § 25-17-505, as such section existed on July 6, 2021.

Section 2. Section 4-82 of the City of Black Hawk Municipal Code is amended by the addition thereto of new subsections (m) and (n) to read as follows:

(m) The retail delivery fee consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805 (5)(g.7), and the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-4-1303(8), as such sections existed on June 17, 2021; and

(n) The carryout bag fee imposed in C.R.S. § 25-17-505, as such section existed on July 6, 2021.

Section 3. 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 4. 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 5. 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 24<sup>th</sup> day of August, 2022.

  
David D. Spellman, Mayor

ATTEST:

  
Melissa A. Greiner, CMC, City Clerk

