

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

COUNCIL BILL NUMBER: CB17

ORDINANCE NUMBER: 2018-17

**TITLE: AN ORDINANCE AMENDING ARTICLE IV OF CHAPTER 13 OF THE
BLACK HAWK MUNICIPAL CODE REGARDING THE CITY'S
WATERSHED PROTECTION DISTRICT**

WHEREAS, Article IV of Chapter 13 of the City of Black Hawk Municipal Code is intended to protect the watershed of the City of Black Hawk;

WHEREAS, it has become apparent that the sources of potential pollution should be more specifically identified in order to protect the City's watershed; and

WHEREAS, based on the expansion of the City of Black Hawk's water system with the addition of the Hidden Valley Water Treatment Plant, the City's Watershed Protection District has expanded, necessitating this revision to the map of the City's Watershed Protection District.

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

Section 1. Section 13-62 of the City of Black Hawk Municipal Code is amended to read as follows:

Sec. 13-62. Watershed Protection District Established.

There is hereby established the "Black Hawk Watershed Protection District", which is hereby defined as that territory within the County of Gilpin, the County of Clear Creek, and State of Colorado lying within a five (5) mile radius above the point or points at which the City obtains its municipal water supply from natural streams or from groundwater aquifers. Said District is more particularly described in the map attached hereto as Appendix A and incorporated herein by this reference.

Section 2. Section 13-63 of the City of Black Hawk Municipal Code is amended to read as follows:

Sec. 13-63. Polluting Water Supply Unlawful.

It shall be unlawful for any person, firm or corporation to engage in any activities within the City of Black Hawk Watershed Protection District, if such activities have the effect of causing the quality or quantity of the City water supply to deteriorate to the point where there is a potential threat to the health,

safety and welfare of the citizens of the City of Black Hawk, including, but not limited to, the following activities:

- (1) Excavating, grading, filling or surfacing.
- (2) Altering water drainage courses.
- (3) Conducting surface and/or subsurface mining activities.
- (4) Road construction or improvements.
- (5) Constructing or installing an onsite sewer disposal system.
- (6) Removing vegetation on more than one acre.
- (7) Oil and gas drilling operations.
- (8) Using, handling storing or transmitting toxic or hazardous substances, including, but not limited to, radioactive materials.
- (9) Using, handling, storing, or transporting flammable or explosive materials, except for domestic purposes or within vehicular fuel storage tanks.
- (10) Allowing pollution and run-off into the water supply which has the effect or potential of altering the physical, chemical, biological or radiological integrity of the water.
- (11) Having, keeping, or maintaining any buildings, privy, pen, yard or corral for stock animals within 1000 feet of the banks of streams.
- (12) Bathing or allowing any stock animals to bathe in streams.

Section 3. Section 13-65 of the City of Black Hawk Municipal Code is amended to read as follows:

13-65. Identification of Water Quality Impacts.

The City of Black Hawk and the County of Gilpin have formulated an intergovernmental agreement, Appendix (included as part of this document) to identify, notify and implement the water quality intent of this ordinance.

Section 4. The City of Black Hawk Municipal Code is amended by the addition thereto of a new Section 13-66 to read as follows:

Sec. 13-66. Inspection.

(a) Whenever it is necessary to make an inspection to enforce any provision of this ordinance, the City Manager or his designee may go upon any land located within the Black Hawk Watershed Protection District at any

reasonable time to inspect the same or to perform any duty imposed hereunder; provided that if such land or premises is occupied, such inspector shall first present proper credentials and request entry; and if such land or premises is unoccupied, he shall first make a reasonable effort to locate the owner or occupant or other person or persons having charge or control over the land or premises, and upon locating the owner, occupant or other person or persons shall present proper credentials and request entry. If entry is refused, such person shall give the owner or occupant, or if the owner or occupant cannot be located after reasonable effort, he shall leave at the building or premises, a twenty-four (24) hours' written notice of intention to inspect. The notice given to the owner or occupant or left on the premises as aforesaid shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by the Municipal Judge of the City, or judge of any other court having jurisdiction.

(b) After the expiration of the 24-hour period from the giving or leaving of such notice, the authorized inspector may appear before the Municipal Judge of the municipal court, or judge of any other court having jurisdiction, and upon a showing of probable cause, shall obtain a search warrant entitling him to enter the land or the premises. Upon presentation of the search warrant and proper credentials, or possession of same in the case of unoccupied land or premises, the person may enter into the premises or upon the land using such reasonable force as may be necessary to gain entry therein.

(1) For purposes of this subsection, a determination of "probable cause" will be based upon reasonableness, and if a valid public interest justifies the intrusion contemplated, then there is probable cause to issue a search warrant. The person applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the particular land or premises at issue in order to obtain a search warrant. It is unlawful for any owner or occupant of the building or premises to resist reasonable force used by the authorized inspector, acting pursuant to this subsection.

(2) Whenever an emergency situation exists in relationship to the enforcement of any of the provisions of this ordinance, an authorized inspector upon a presentation of proper credentials or identification, in the case of an unoccupied premises or land may enter into any premises or upon any land within the Black Hawk Watershed Protection District. In emergency situations, such person or his authorized representative may use such reasonable force as may be necessary to gain entry into the premises or upon the land.

(3) For purposes of this subsection, an emergency situation includes any situation where there is imminent danger to the Black Hawk Watershed Protection District. It is unlawful for any owner or occupant of the premises or land to resist reasonable force used by the authorized official acting pursuant to this subsection.

(c) The Municipal Judge of the City of Black Hawk shall have power to issue search warrants upon the showing of probable cause for the implementations as provided in Subsection (a) of this Section.

Section 5. The City of Black Hawk Municipal Code is amended by the addition thereto of a new Section 13-67 to read as follows:

Sec. 13-67. Abatement Notice.

In addition to the penalty provided by Section 13-69 hereof, the owner, occupant or person in control of any premises which are found to be in violation of any provision of this ordinance will be given a ten (10) day notice in writing to abate and remove the condition. However, where an emergency condition exists as defined in Section 13-66, this ten (10) day notice shall not apply.

Section 6. The City of Black Hawk Municipal Code is amended by the addition thereto of a new Section 13-68 to read as follows:

Sec. 13-68. Enforcement and Abatement.

If any person, or any owner or occupant of any premises upon whom notice is served as provided by Section 13-67 hereof does not abate or remove the conditions described in the notice within the 10-day period provided, the City may at its discretion and in lieu of obtaining a court injunction, proceed to abate the condition causing the pollution or contamination of the water supply and shall charge the person or owner or occupant of the premises with all of the cost of the abatement or removal. This ordinance may be enforced by the designated police officers of the City.

Section 7. The City of Black Hawk Municipal Code is amended by the addition thereto of a new Section 13-69 to read as follows:

Sec. 13-69. Penalty.

Any person violating any of the terms of this ordinance is guilty of a misdemeanor and upon conviction thereof shall be subject to the penalties set forth in Section 1-73 of this Black Hawk Municipal Code. Each day of the violation, after the ten (10) day notification period, shall be deemed a separate and additional violation.

Section 8. The City of Black Hawk Municipal Code is amended by the addition thereto of a new Section 13-70 to read as follows:

Sec. 13-70. Remedies.

The remedies herein provided shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Section 9. The City of Black Hawk Municipal Code is amended by the addition thereto of a new Section 13-71 to read as follows:

Sec. 13-71. Exemption.

The City of Central's water system current and future shall be exempt from this ordinance.

Section 10. Safety Clause. The Board of Aldermen 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 Board of Aldermen further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

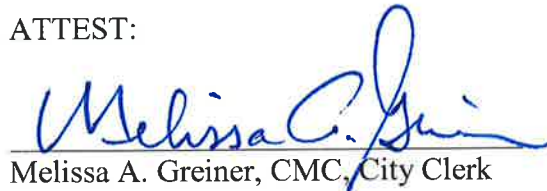
Section 11. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 12. 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 22nd day of August, 2018.


David D. Spellman, Mayor

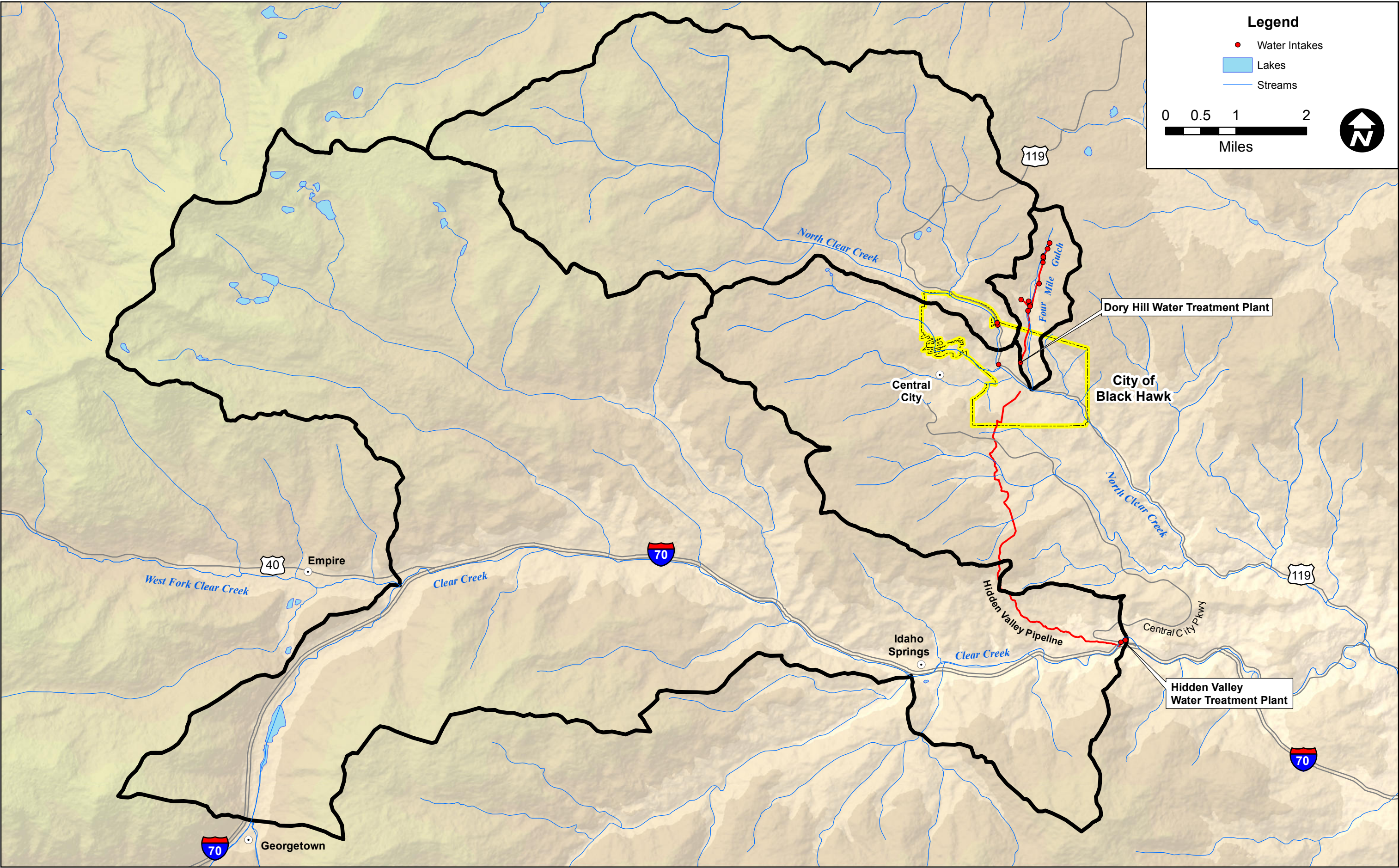
ATTEST:


Melissa A. Greiner, CMC, City Clerk



APPENDIX A

City of Black Hawk
Source Water Protection Area



City of Black Hawk Source Water Protection Area