

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

COUNCIL BILL NUMBER: 20

ORDINANCE NUMBER: 2018-20

TITLE: AN ORDINANCE AMENDING ARTICLE 6; SECTION 7-152; SECTION 10-145; AND SECTION 18-302 OF THE BLACK HAWK MUNICIPAL CODE

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

Section 1. Section 6-51 of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-51. Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

* * *

City Clerk means City Clerk of the City of Black Hawk, acting in the City Clerk's capacity as the secretary of the local licensing authority, having the authority vested in the City Clerk under this Article and under Articles 3 and 4 of Title 44, C.R.S.

* * *

Good cause, for the purpose of refusing or denying a license renewal or initial license issuance means:

* * *

c. In the case of a new license, the applicant has not established the reasonable requirements of the neighborhood or the desires of its adult inhabitants as provided in Section 44-3-301(2), C.R.S.; or

* * *

Optional premises means:

a. Premises specified in an application for a hotel and restaurant license under Title 44, Article 3, C.R.S., with related outdoor sports and recreational facilities for the convenience of its guests or the general public located on or adjacent to the hotel or restaurant which is licensed to serve alcoholic beverages in accordance with the provisions of this Article and at the discretion of the state and local licensing authorities; and

* * *

Sell or Sale means any of the following: To exchange, barter or traffic in; to solicit or receive an order for except through a licensee licensed under this Article or Article 4 or 5 of Title 44, C.R.S.; to keep or expose for sale; to serve with meals; to deliver for value or in any way other than gratuitously; to peddle or to possess with intent to sell; to possess or transport in contravention of this Article; to traffic in for any consideration promised or obtained, directly or indirectly.

* * *

Section 2. Section 6-58(a) of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-58. Application

(a) The local licensing authority may issue only the following malt, vinous and spirituous liquor licenses upon payment of the fee specified in Section 6-72 and Section 44-3-505, C.R.S.

* * *

Section 3. Section 6-67(b)(5) of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-67. Distance from schools.

* * *

(b) Subsection (a) does not apply to:

* * *

(5) Any club located within the principal campus of any college, university or seminary, as defined in Section 44-3-103, C.R.S., which limits its membership to the faculty or staff of such institution; or

* * *

Section 4. Section 6-68 of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-68. Transfer

No liquor license granted under the provisions of this Article shall be transferable, except as provided by Article 3 of Title 44 of the Colorado Revised Statutes and in Section 6-55 of this Article. When a license has been issued to a husband and wife, or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to the survivors for the balance of the license.

Section 5. Section 6-71(a) of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-71. Penalty for violation.

(a) Any licensee who violates the terms of this Article may be subject to suspension or revocation of his or her license pursuant to Section 44-3-601, C.R.S.

Section 6. Section 6-72(d) of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-72. License and application fees.

* * *

(d) The local licensing authority will charge applicants according to the City of Black Hawk Fee Schedule for the cost of each fingerprint analysis and background investigation undertaken to qualify new officers, directors, stockholders, members or managers pursuant to the requirements of Section 44-3-307, C.R.S.; however, the local licensing authority shall not collect such a fee if the applicant has already been approved by the State licensing authority with an approved master file.

Section 7. Section 6-74 of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-74: Special event liquor permits.

(a) Pursuant to Section 44-5-107(5)(a), C.R.S., the City Council, acting as the Local Licensing Authority ("Authority"), elects not to notify the State licensing authority to obtain the State licensing authority's approval or disapproval of applications for special events.

* * *

(c) Upon receipt of an application for a special event permit, the City Clerk shall, as required by Section 44-5-107(5)(c), C.R.S., access information made available on the State licensing authority's web site to determine the State-wide permitted activity of the organization applying for the permit. The Authority shall consider compliance with the provisions of Section 44-5-107(3), C.R.S., which restricts the number of permits issued to an organization within a calendar year to fifteen (15), before approving any application.

* * *

Section 8. Section 6-531 of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-531: Purpose

It is the purpose of this Article for the City to exercise its local option to allow common consumption areas in the City by establishing an entertainment district as provided in Section 44-3-301(11), C.R.S. The standards adopted herein shall be considered in addition to all other standards applicable to the issuances of licenses under the Colorado Liquor Code and this Chapter.

Section 9. Section 6-534 of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-534: Creation of Entertainment District.

In order to exercise the City's local option to allow common consumption areas in the City and to effectuate the purposes and intent of Section 44-3-301(11), C.R.S., there is hereby established and designated the Entertainment District, whose boundaries include all land, inclusive of rights-of-way, located on and adjacent to Main Street and Miners' Mesa Drive, as more particularly described in Exhibit A to the ordinance codified herein. Properties may be included or excluded from the Entertainment District by resolution of the City Council. By establishing the Entertainment District, the City authorizes the licensing of designated common consumption areas in which alcohol beverages may be sold and consumed subject to the requirements of this Article, this Code and the Colorado Liquor Code.

Section 10. Section 6-537(b)(4) of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-537: Application for attachment to common consumption area

* * *

(b) The local licensing authority may refuse to authorize, refuse to reauthorize or may deauthorize attachment if:

* * *

(4) The licensee violates any provision contained in Section 44-3-910, C.R.S.

Section 11. Section 6-551(b) of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-551: Findings

The City Council makes the following legislative findings:

* * *

(b) The City Council finds and determines that the enactment by the Colorado Legislature of the Colorado Retail Marijuana Code, C.R.S. § 44-12-101, et seq., clarifies Colorado law regarding the scope and extent of Amendment 64 to the Colorado Constitution.

* * *

Section 12. Section 6-552 of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-552: Purpose

The purpose of this Article is to implement the provisions of the Colorado Retail Marijuana Code, C.R.S. § 44-12-101, et seq., which authorizes the licensing and regulation of retail marijuana businesses and affords local government the option to determine whether or not to allow retail marijuana businesses within their respective jurisdictions and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in State law.

Section 13. Section 6-554 of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-554: Authority

The City Council hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

* * *

(2) The Colorado Retail Marijuana Code, C.R.S. § 44-12-101, et seq.;

* * *

Section 14. Section 6-555(a) of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-555: Definitions

(a) For purposes of this Article, the following terms shall have the following meanings:

Colorado Medical Marijuana Code means Article 12 of Title 44, Colorado Revised Statutes.

* * *

State Licensing Authority means the authority created by the Colorado Department of Revenue for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale and testing of retail marijuana in the State of Colorado pursuant to C.R.S. § 44-12-201.

* * *

Section 15. Section 6-564(a)(1) of the Black Hawk Municipal Code is amended to read as follows:

Sec. 6-564: Persons prohibited as licensees and employees

(a) No license shall be issued to, held by, or renewed by any of the following:

* * *

(10) Any person who has not possessed a medical marijuana license or provisional medical marijuana license authorizing the sale of marijuana at retail within the meaning of C.R.S. § 44-11-101, et seq., or in the alternative has not possessed a retail marijuana license within the meaning of C.R.S. § 44-12-101, et seq., in another jurisdiction for at least one (1) year prior to the date of the application, with the person having not received any State or local violations of their medical marijuana or retail marijuana license in said other jurisdiction; provided however, this provision shall not be applicable to employees who do not have an ownership interest in the license;

* * *

Section 16. Section 7-152 of the Black Hawk Municipal Code is amended to read as follows:

Sec. 7-152. Definitions

* * *

Bar means any indoor area that is operated and licensed under Article 3 of Title 44, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

* * *

Section 17. Section 10-145(b) of the Black Hawk Municipal Code is amended to read as follows:

Sec. 10-145. Open container and re-corking exception

* * *

(b) A customer of a hotel or restaurant licensed pursuant to Section 44-3-413, C.R.S., may reseal, remove and transport from the licensed premises one (1) opened container of partially consumed vinous liquor purchased on the premises so long as the original container did not contain more than seven hundred fifty (750) milliliters of vinous liquor.

Section 18. Section 18-302(1) of the Black Hawk Municipal Code is amended to read as follows:

Sec. 18-302. General Provisions

A primary caregiver, for purposes of this Article and consistent with Article XVIII, Section 14(1)(f) of the Colorado Constitution, is defined as a natural person, other than the patient and the patient's physician, who is eighteen (18) years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition. In addition to other activities conducted on behalf of the patient, a primary caregiver, a patient or a group of patients cultivating marijuana plants for their own use may cultivate, possess, produce, use or transport marijuana or paraphernalia to administer marijuana for medicinal purposes, subject to the following.

(1) Such cultivation, production or possession of marijuana plants must be in full compliance with all applicable provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, Section 44-11-101, et seq., and the Medical Marijuana Program, Section 25-1.5-106, C.R.S.

* * *

Section 19. 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.

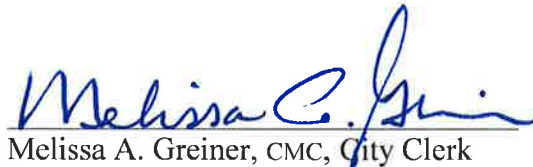
Section 20. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 21. 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 September, 2018.


David D. Spellman, Mayor

ATTEST:


Melissa A. Greiner, CMC, City Clerk

