

Agenda Item: V. D.
Meeting Date: April 13, 2020

Subject: Emergency Ordinance 885, temporarily suspending certain provisions of the Dacono Municipal Code regarding penalties for non-payment of water charges.

Presenter: A.J. Euckert, City Manager

Background: On March 25, the Governor issued Executive Order 2020-17, ordering the Colorado Department of Public Health and Environment (“CDPHE”) to issue a state-wide “Stay at Home” Public Health Order. Also, on March 25, the CDPHE issued an Amended Public Health Order 20-24 Implementing Stay at Home Requirements, which requires all individuals currently living within the State of Colorado to stay at home whenever possible, and only to leave to perform or utilize “Necessary Activities,” as defined in the Order.

As a result of these recent orders, most of the City’s residents will be sheltering in their homes for an extended period of time. The full economic impacts of COVID-19 cannot be determined at this time, but some Dacono residents may likely find themselves unable to meet important financial obligations. The City Council desires to grant such temporary relief to the City’s water customers as set forth herein during the period in which the Mayor’s Declaration remains in effect.

At this point, it is difficult to project the cost of waiving these fees. The past few months have averaged \$1,600 per month. That will likely increase. When the Local Disaster Emergency Declaration for the City is lifted, we will work with our customers through payment plans on past due balances. We currently utilize payment plans, so we have the procedures already in place.

Recommended Action: Consideration and approval of Ordinance 885, temporarily suspending certain provisions of the Dacono Municipal Code regarding penalties for non-payment of water charges, on an emergency basis.

ORDINANCE NO. 885

AN EMERGENCY ORDINANCE TEMPORARILY SUSPENDING CERTAIN PROVISIONS OF THE DACONO MUNICIPAL CODE REGARDING PENALTIES FOR NON-PAYMENT OF WATER CHARGES

WHEREAS, on March 17, 2020, the Mayor of the City of Dacono, pursuant to C.R.S. § 24-33.5-709, executed a Declaration of Local Disaster Emergency in and for the City of Dacono (the “Mayor’s Declaration”); and

WHEREAS, by Resolution No. 20-25 adopted on March 18, 2020, the City Council continued in effect the Mayor’s Declaration until terminated by resolution of the City Council; and

WHEREAS, on March 20, 2020, the Governor of the State of Colorado issued Executive Order 2020-12, which addresses public utility delinquencies and disconnections, and which urges the Public Utilities Commission to work with all public utilities in the state to address impacts of COVID-19 on residential and small businesses; and

WHEREAS, on March 22, 2020, the Governor issued Executive Order 2020-12, which orders Colorado employers to reduce in-person workforce by fifty percent due to the presence of COVID-19 in the state; and

WHEREAS, on March 25, 2020, the Governor issued Executive Order 2020-17, ordering the Colorado Department of Public Health and Environment (“CDPHE”) to issue a state-wide “Stay at Home” public health order; and

WHEREAS, thereafter, also on March 25, 2020, the CDPHE issued an Amended Public Health Order 20-24 Implementing Stay at Home Requirements, which requires all individuals currently living within the State of Colorado to stay at home whenever possible, and only to leave to perform or utilize “Necessary Activities,” as defined in the Order; and

WHEREAS, as a result of these recent orders, most of the City’s residents will be sheltering in their homes for an extended period of time; and

WHEREAS, the full economic impacts of COVID-19 cannot be determined at this time, but it is likely that some Dacono residents may find themselves unable to meet important financial obligations; and

WHEREAS, the City Council desires to grant such temporary relief to the City’s water customers as set forth herein during the time period in which the Mayor’s Declaration remains in effect; and

WHEREAS, the City Council finds that an emergency exists because the preservation of public property, health, safety, and welfare requires the City to take immediate action to ensure that all City water customers have continuous access to fresh, clean water during the COVID-19 Pandemic.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO:

Section 1. Those provisions of Chapter 13, Article 1 of the Dacono Municipal Code (Water Service) addressing the matters set forth herein shall be, and hereby are, temporarily suspended in order to effectuate the following:

- A. Water service shall not be disconnected for delayed, missed, or partial payments of charges due for use of water;
- B. Any water service that has been disconnected for nonpayment or arrearages related to the impacts of COVID-19 will be reconnected and payment of reconnection fees shall be waived;
- C. Late fees for past due balances shall be suspended; and
- D. Partial payments will be accepted and credited toward the balance of charges due.

Section 2. This ordinance shall become effective upon adoption, shall apply to disconnections and penalties incurred on and after the date of the Mayor's Declaration, and shall remain in effect until the disaster emergency declared by the Mayor's Declaration, as continued in effect by the City Council, is terminated by resolution of the City Council, and at such time the provisions of Chapter 13, Article 1 suspended by this ordinance shall be reinstated without further action by the City Council. During the time when this ordinance is effective, and thereafter, all charges imposed pursuant to Chapter 13 for water service are and shall remain a lien on the property served from the time the charge is due until paid, as set forth in Section 13-2(b) of the Dacono Municipal Code.

Section 3. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 4. The repeal or modification of any provision of the Dacono Municipal Code by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 6. The City Council herewith finds, determines and declares that this ordinance is genuinely and urgently necessary for the immediate preservation of the public health, safety, and welfare because the COVID-19 Pandemic has presented an urgent need to ensure that all City residents and water customers have continuous access to fresh, clean water.

**INTRODUCED, READ, ADOPTED BY AT LEAST FIVE AFFIRMATIVE VOTES,
AND ORDERED PUBLISHED AND POSTED IN FULL THIS 13th day of April, 2020.**

CITY OF DACONO, COLORADO

Joe Baker, Mayor

ATTEST:

Valerie Taylor, City Clerk

Summary of Ordinance No. 885, **“AN EMERGENCY ORDINANCE TEMPORARILY SUSPENDING CERTAIN PROVISIONS OF THE DAONO MUNICIPAL CODE REGARDING PENALTIES FOR NON-PAYMENT OF WATER CHARGES”** Temporarily suspends disconnection and penalties for non-payment of water service charges during the COVID-19 pandemic.