

GB-B.

Meeting Date: January 25, 2021

Subject: An Emergency Ordinance Imposing a Temporary Moratorium on the Issuance of a Building Permit, Special Use Permit or Business License to, or Receipt of any Land Use Application From, any Property Owner or Applicant the Purpose of Which Includes Development, Construction or Operation of a Self-Storage Facility.

Presenter: Jennifer Krieger, AICP, Community Development Director

Background: Ordinance 900 establishes a temporary moratorium until October 31, 2021 on the issuance of a building permit, business license or land use approval for development, construction or operation of new self-storage facilities. During this period, the City can consider amendments to the Dacono Municipal Code and any regulations that may permit new or additional self-storage facilities.

Ordinance 900 does not impact any existing applications under review or for consideration by the City Council.

Recommended Action: Staff recommends approval of Ordinance No 900 by emergency.

ORDINANCE NO. 900

AN EMERGENCY ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE ISSUANCE OF A BUILDING PERMIT, SPECIAL USE PERMIT OR BUSINESS LICENSE TO, OR RECEIPT OF ANY LAND USE APPLICATION FROM, ANY PROPERTY OWNER OR APPLICANT THE PURPOSE OF WHICH INCLUDES DEVELOPMENT, CONSTRUCTION OR OPERATION OF A SELF-STORAGE FACILITY.

WHEREAS, the City regulates the excavation for and construction of buildings and other structures located within the City by those ordinances codified in Chapter 18 of the Dacono Municipal Code (“DMC”), and Section 18-1 of the Dacono Municipal Code makes it unlawful for any person to commence such activities as are regulated in Chapter 18 until the Building Official has issued a building permit therefor; and

WHEREAS, the City regulates trades, professions, businesses and occupations conducted within the City by those ordinances codified in Chapter 6 of the Dacono Municipal Code, and Section 6-1 of the Dacono Municipal Code makes it unlawful for any person to establish, engage or be engaged in such activities without having first obtained a general business license from the City and such additional licenses as may be required by Chapter 6; and

WHEREAS, the City regulates the use and subdivision of land by those ordinances codified in Chapters 16 and 17 of the Dacono Municipal Code, and Sections 16-9 and 17-1 of the Dacono Municipal Code require conformance with those regulations set forth in Chapters 16 and 17; and

WHEREAS, the City’s zoning regulations do not list self-storage facilities as a permitted principal use in any zone district within the City, but such uses have been approved in the Light Industrial (I-1) zone district pursuant to DMC § 16-201(1); and

WHEREAS, according to industry estimates, the national average of self-storage facilities needed to serve a local population, as measured by square feet per capita of population, ranges between seven and eight square feet; and

WHEREAS, the City has a 2018 estimated population of 5,742 people, which equates to 40,194 to 45,936 square feet of self-storage facilities to serve the local population per the national average; and

WHEREAS, with more than 250,000 square feet of indoor self-storage, and more than 32 acres of outdoor storage, self-storage facilities appear to be significantly overbuilt within the City; and

WHEREAS, this disproportionate proliferation of self-storage facilities within the City is not consistent with the City’s Comprehensive Plan Guiding Principles and Vision, which emphasizes diversity in the City’s land use, economy, and job and business opportunities; and

WHEREAS, self-storage facilities located in certain areas of the City are also inconsistent with the adopted goals and policies of the Dacono Business Assistance policy, which include creating a vibrant “commercial core” and improving the overall attractiveness of the community; and

WHEREAS, self-storage facilities additionally do not promote the City’s goal of attracting and retaining a variety of employment opportunities for City residents, as such facilities typically employ only approximately one person per acre of developed land; and

WHEREAS, self-storage facilities do not support the City’s goal of encouraging and supporting a diverse mix of high-quality retail and service businesses, with an emphasis on those that are “home grown” and that contribute to the City’s sales and property tax bases; and

WHEREAS, the City Council finds and determines it is of critical importance to the City and its residents that the City Council examine these and other important policy considerations presented by self-storage facilities in the overall mix of land uses within the City, and that any decisions made be applied to applications that may be filed to develop, construct or operate new or additional self-storage facilities; and

WHEREAS, by Ordinance No. 890 adopted on July 13, 2020, the City Council imposed a temporary moratorium until January 15, 2021 on the issuance of building permits, special use permits, or business licenses to, or receipt of any land use applications for, construction or operation of new self-storage facilities; and

WHEREAS, during the period of this temporary moratorium, the City Council held public work sessions to discuss the matter and has concluded that more time is necessary to examine the important policy considerations in the context of a study being done of the City’s Interstate 25 corridor; and

WHEREAS, following expiration of the initial temporary moratorium until the date of adoption of this ordinance, no applications have been filed for new self-storage facilities; and

WHEREAS, in order to protect the public health, safety and general welfare of the inhabitants of the City, the City Council hereby finds and determines that it is necessary and appropriate to impose a temporary moratorium for a period of nine months on the issuance of a building permit, special use permit or new business license to, or receipt of any land use application from, any property owner or applicant the purpose of which includes development, construction or operation of a self-storage facility, during which time the City shall consider amendments to the Dacono Municipal Code concerning the same and any regulations that may permit new or additional self-storage facilities without negatively impacting the City and its residents; and

WHEREAS, the City Council finds and declares it has the power and authority to adopt this ordinance pursuant to Amendment 64, C.R.S. § 29-20-101, *et seq.* (the Local Government Land Use Control Enabling Act), C.R.S. § 31-23-301, *et seq.* (concerning municipal zoning

powers), C.R.S. § 31-15-103 (concerning municipal police powers), C.R.S. § 31-15-401 (concerning municipal police powers), C.R.S. § 31-15-501 (concerning municipal authority to regulate businesses), C.R.S. § 31-15-601 (concerning municipal building regulations), Article XX of the Colorado Constitution (concerning municipal home rule), and the City of Dacono Home Rule Charter ; and

WHEREAS, an emergency exists because the City Council finds and determines it is of critical importance to the City and its residents that such ordinance, resolutions, rules and regulations be applied to all applications to develop, construct or operate new or additional self-storage facilities within the City.

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

Section 1. The foregoing recitals are hereby affirmed and incorporated herein by this reference as findings of the City Council.

Section 2. Upon the effective date of this ordinance, and until October 31, 2021, no application for approval of a building permit, new business license, or land use approval, including but not limited to any zoning, subdivision, or site plan application, filed by or on behalf of any business or landowner whose purpose includes development, construction or operation of a self-storage facility shall be received, reviewed, approved or otherwise acted upon, unless otherwise provided in this ordinance. For purposes of this moratorium, a self-storage facility shall be considered synonymous with self-service storage facility, self-storage warehouse or facility, mini-warehouse, mini-storage, and similar terms used to describe this use.

Section 3. The restrictions contained in this ordinance shall not be construed to affect any applications for a building permit, business license, or any land use approval for which complete applications were filed prior to the effective date of the moratorium.

Section 4. Any person who submitted a complete application for a building permit, business license, or land use approval to construct, develop or operate a self-storage facility prior to the effective date of the moratorium, and who believes that application of the temporary moratorium to such application would be legally invalid, may file with the City Council a request for an exemption from the moratorium. The request shall be in writing and fully set forth the reasons why the exemption should be granted. The City Council may grant the exemption if it finds that application of the moratorium would be legally invalid under the facts presented.

Section 5. The provisions of this ordinance are temporary in nature and may be repealed by subsequent legislative enactment. The temporary moratorium established by this ordinance shall terminate as of October 31, 2021 unless sooner repealed.

Section 6. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council

hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 7. The repeal or modification of any provision of any prior ordinance 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 judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 8. 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 9. The City Council herewith finds, determines, and declares that this ordinance is necessary to the immediate preservation of public property, health, welfare, peace, or safety. Pursuant to Charter § 3-10, this ordinance shall be effective upon adoption.

INTRODUCED, READ, ADOPTED BY AT LEAST FIVE AFFIRMATIVE VOTES, AND ORDERED PUBLISHED AND POSTED IN FULL THIS 25th day of January, 2021.

CITY OF DACONO, COLORADO

Joe Baker, Mayor

ATTEST:

Valerie Taylor, City Clerk

Summary of Ordinance No. 900, **“AN EMERGENCY ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE ISSUANCE OF A BUILDING PERMIT, SPECIAL USE PERMIT OR BUSINESS LICENSE TO, OR RECEIPT OF ANY LAND USE APPLICATION FROM, ANY PROPERTY OWNER OR APPLICANT THE PURPOSE OF WHICH INCLUDES DEVELOPMENT, CONSTRUCTION OR OPERATION OF A SELF-STORAGE FACILITY”**: Establishes a temporary moratorium until October 31, 2021 on the issuance of a building permit, business license or land use approval for development, construction or operation of new self-storage facilities.