

**Subject:** Ordinance 901, 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 Motor Fuel Filling Station or Truck Stop.

**Presenter:** Jennifer Krieger, AICP, Community Development Director

**Background:** Ordinance 901 imposes a moratorium on the development, construction or operation of a motor fuel filling station or truck stop. In the Dacono Municipal Code, motor fuel filling stations are permitted in certain zone districts within the City. The City's zoning regulations do not list truck stops as a permitted principal use in any zone district, and no truck stops are currently operating within the City.

Truck stops present unique zoning and planning challenges not presented by motor fuel filling stations. Staff believes that land use regulations are necessary to differentiate these two land uses and address the impacts of each to protect the health, safety, and public welfare of the City and its residents. Additionally, the City Council should examine the important policy considerations presented by truck stops in the City's overall mix of land uses.

The moratorium is in effect until October 31, 2021.

**Recommended Action:** Staff is recommending approval of Ordinance 901 by Emergency.

## **ORDINANCE NO. 901**

**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 MOTOR FUEL FILLING STATION OR TRUCK STOP.**

**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**, while motor fuel filling stations are permitted in certain zone districts within the City, the City’s zoning regulations do not list truck stops as a permitted principal use in any zone district and no truck stops are currently operating within the City; and

**WHEREAS**, the City Council finds that truck stops present unique zoning and planning challenges not presented by motor fuel filling stations, and that regulations intended to differentiate these two land uses and more specifically address the impacts of each will protect the health, safety, and public welfare of the City and its residents; and

**WHEREAS**, the City Council further finds and determines it is of critical importance to the City and its residents that the City Council examine the important policy considerations presented by truck stops in the overall mix of land uses within the City, and that any decisions made be applied to applications that may be filed in the future to develop, construct or operate truck stops; 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 it necessary and appropriate to impose a temporary moratorium 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 motor fuel filling station or truck stop, 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 motor fuel filling stations or truck stops 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 motor fuel filling stations or truck stops 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 motor fuel filling station or truck stop shall be received, reviewed, approved or otherwise acted upon, unless otherwise provided in this ordinance. For purposes of this moratorium, a motor fuel filling station shall be considered synonymous with gas station or service station, and similar terms used to describe this use, and a truck stop shall be considered synonymous with travel plaza and include motor vehicle and truck fueling facilities as well as maintenance, servicing, storage, parking or repair of commercial vehicles, including the sale of motor fuels or other petroleum products, and the sale of accessories or equipment for over-the-road trucks and similar commercial vehicles. A travel plaza or truck stop may also include overnight accommodations, showers, vehicle scales, restaurant facilities, game rooms, and/or other services and diversions intended mainly for use by truck drivers and interregional travelers.

**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 motor fuel filling station or truck stop 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 22<sup>nd</sup> day of March, 2021.**

CITY OF DACONO, COLORADO

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Joe Baker, Mayor

ATTEST:

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Valerie Taylor, City Clerk

Summary of Ordinance No. 901, **“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 January 15, 2021 on the issuance of a building permit, business license or land use approval for development, construction or operation of new self-storage facilities.