

Agenda Item: GB-C

Meeting Date: February 27, 2023

Subject: Public hearing and consideration of Ordinance No. 940, amending Chapter 16 of the Dacono Municipal Code concerning prohibiting motorized vehicle, boat, equipment, or recreational vehicle sales, rental or consignment in all Zone Districts of the City and adding use standards for motor vehicle service facilities, on first reading.

Presenter: Jennifer Krieger, AICP, Community Development Director

Background: Ordinance 940 would prohibit motor vehicle, equipment, and boat sales, rental, and leasing in all zone districts of the City. Motor vehicle service is divided into two categories: motor vehicle service, major, and motor vehicle service, minor. Motor vehicle service, minor would be allowed by special use permit in the C-1 Commercial District. Motor vehicle service, major would be only permitted in the I-1 Light Industrial District subject to industrial use approval.

Recommended Action: Staff recommends approval of Ordinance No. 940 on the first reading.

ORDINANCE NO. 940

AN ORDINANCE PROHIBITING MOTORIZED VEHICLE, BOAT, EQUIPMENT, OR RECREATIONAL VEHICLE SALES, RENTAL, OR CONSIGNMENT IN ALL ZONE DISTRICTS OF THE CITY AND ADDING USE STANDARDS FOR MOTOR VEHICLE SERVICE FACILITIES.

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, by Ordinance No. 920 adopted on December 21, 2021, the City Council imposed a temporary moratorium until September 30, 2022 on applications for approval of a building permit, new business license, or land use approval, including but not limited to any zoning, subdivision, special use permit, or site plan applications, filed by or on behalf of any business or landowner whose purpose includes development, construction or operation of motorized vehicle, boat, equipment, recreational vehicle, or trailer sales, service, rental, or consignment, which temporary moratorium was extended to March 31, 2023 by Ordinance No. 932; and

WHEREAS, during the period of the temporary moratorium, the City retained the consulting services of Galloway & Company, Inc., HR Green, and Harvey Economics to complete background research, develop options, and offer recommendations for future land use and development within the City, which study resulted in the I-25 Sub-Area Master Plan, which was adopted as part of the City's comprehensive by the City of Dacono Planning and Zoning Commission on January 24, 2023 and approved by the City Council on February 13, 2023; and

WHEREAS, the City and the Urban Renewal Authority of Dacono ("URAD") also retained Hunden Strategic Partners to prepare that Dacono Highest & Best Uses Study dated August 22, 2022, which examined the economic, demographic, market, and demand analysis as it specifically pertained to a particular large property within the City, but contains useful information to guide development opportunities within the City generally; and

WHEREAS, by reference to both of these studies, the City Council's objective is to facilitate development that targets specific identified needs within the City, both in the short term and the long term, in part by identifying development that does not contribute to the City's goals, in order to not miss the opportunity to drive impactful economic development to the City and risk losing residents and new businesses to surrounding communities as the regional markets continue to evolve and expand; and

WHEREAS, based on these studies and other relevant information provided by the City's Community Development Department, the City Council finds that motorized vehicle, boat, equipment, recreational vehicle, and trailer sales, service, rental, and consignment uses present zoning and planning challenges not presented by other commercial and industrial uses in

the way they contribute to the employment base, fiscal benefit, and the overall commercial base and mixture of land uses within the City, and that certain of these uses should be excluded from the City and other special considerations or requirements as set forth herein are necessary in order for these uses to be compatible with other uses within the City; 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.

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. Chapter 16, Article 2 of the Dacono Municipal Code (Definitions) is hereby amended by the addition of a new Section 16-38.5 to read as follows:

Sec. 16-38.5 Electric vehicle charging station.

Electric vehicle charging station means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy by conductive or inductive means to a battery or other energy storage device in an electric vehicle.

Section 3. Section 16-60 of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

Sec. 16-60 Motor fuel filling station.

Motor fuel filling station means gas station or service station, and similar terms used to describe this use, but not including a truck stop. A motor fuel filling station does not include any facility meeting the definition of major or minor motor vehicle service or any electric vehicle charging stations accessory to a primary use.

Section 4. Chapter 16, Article 2 of the Dacono Municipal Code (Definitions) is hereby amended by the addition of new Sections 16-60.2, 16-60.4 and 16-60.6 to read as follows:

Sec. 16-60.2 Motor vehicle, equipment, and boat sales, rental, and leasing.

Motor vehicle, equipment, and boat sales, rental, and leasing means a dealership or any other premises on which three or more new cars, trailers, trucks, recreational vehicles, motorcycles, or other motorized vehicles, boats, or equipment are offered for sale, rental, or lease during any calendar year. For purposes of this definition, the following terms shall be interpreted broadly: “recreational vehicle” shall mean and include motorhomes, fifth wheels, travel trailers, toy haulers, pop-ups, truck campers, and teardrops; “boats” shall mean and include personal watercraft and water vessels; “equipment” shall mean and include construction equipment, agricultural equipment, and other heavy-duty equipment, parts, and tools; “motorized vehicle” shall mean and include automobiles, motorcycles (side-by-sides, street bikes, dirt bikes, scooters), all terrain vehicles (ATVs), utility vehicles (UTVs), snowmobiles, snowbikes, and go-karts; and “trailers” shall mean and include those for living quarters, horse, stock, cargo, utility, dump, flatbed, and truck bed.

Sec. 16-60.4 Motor vehicle service, major.

Motor vehicle service, major means general repair or reconditioning of engines, air conditioning systems, and transmissions for automobiles, recreational vehicles, and commercial vehicles, and wrecker or towing services; collision services including body, frame, or fender straightening or repair, customizing, or painting; undercoating and rust proofing; and including those uses listed under minor motor vehicle service or any other similar use.

Sec. 16-60.6 Motor vehicle service, minor.

Motor vehicle service, minor means minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as changing grease, oil, spark plug, and filter changing; emergency road service; replacement of starters, alternators, hoses, brake parts; performing brake inspections and making minor repairs necessary to pass inspection; normal servicing of air conditioning systems; and other similar minor services for motor vehicles, but not including any operations or uses listed under major motor vehicle service or any similar use.

Section 5. Section 16-10 of the Dacono Municipal Code is hereby amended by the addition of new subsection (o) to read as follows:

Sec. 16-10 Prohibited uses.

- (o) Motor vehicle, equipment, and boat sales, rental, and leasing are prohibited in all zone districts of the City.

Section 6. Section 16-181(3) of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

Sec. 16-181 General requirements.

General requirements in the C-1 district shall be as follows:

- (3) The following uses, which may create unusual traffic hazards, land use compatibility issues, or nuisance issues or other detrimental impacts to the site and surrounding areas, must receive special use permit approval as required by Section 16-373 of this Code.
 - a. Places serving food or beverages outside of an enclosed building;
 - b. Places of amusement or recreation;
 - c. Advertising signboards;
 - ~~d.~~ ~~Gasoline stations;~~
 - e d. ~~Motor vehicles, sales and servicing~~ Motor vehicle services, minor;
 - ~~f e.~~ ~~Motor fuel filling stations and garages;~~
 - ~~g f.~~ Preparation or processing of goods or products for retail sales on premises only;
 - ~~h g.~~ Laboratories, research;
 - ~~i h.~~ Tourist facilities.

Section 7. Section 16-200 of the Dacono Municipal Code is hereby amended by the addition of a new subsection (22) to read as follows:

Sec. 16-200 Permitted uses.

Permitted principal uses in the I-1 district shall be as follows:

- (22) Motor vehicle services, major.

Section 8. Section 16-207 of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

Sec. 16-207 Other requirements.

Other provisions and requirements in the I-1 district shall be as follows:

- (1) All outdoor storage areas and yards shall be completely enclosed by a fence at least six (6) feet high and must be continually maintained, and no advertising signs or billboards shall be permitted thereon. ~~This does not include areas for the display of new or used autos, equipment or products displayed for sale, and not primarily stored for reclaiming, wrecking or processing.~~
- (2) Any outdoor storage associated with a major motor vehicle service facility shall be completely screened with a wall surrounding the storage area. The wall shall be architecturally compatible with the primary structure including, but not limited to, materials, color, roof pitch, and detailing, and be a minimum of six (6) feet in height.

Section 9. Section 16-376 of the Dacono Municipal Code is hereby amended by the addition of a new subsection (6) to read as follows:

Sec. 16-376 Criteria for decisions.

The applicant shall have the burden of proof to clearly establish at the public hearings that the proposed special use meets the following criteria and is otherwise in compliance with this Article:

- (6) Additional use standards for minor motor vehicle facilities. Overnight outdoor storage of vehicles shall be limited to the number of service bays and overnight outdoor storage of any vehicle shall not exceed a 24-hour period.

Section 10. This ordinance shall become effective as provided in the City of Dacono Home Rule Charter. Upon this ordinance becoming effective, the temporary moratorium on motorized vehicle, boat, equipment or recreational vehicle sales, service, rental, or consignment imposed by Ordinance No. 920, as extended by Ordinance No. 932 shall be repealed. Uses lawfully existing on the effective date of this ordinance, which would be prohibited by this ordinance, may continue in accordance with Chapter 16, Article 14 of the Dacono Municipal Code.

Section 11. 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 12. 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 13. 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.

INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED BY TITLE this ____ day of _____, 2023.

PUBLIC HEARING AND SECOND READING WILL BE THE ____ day of _____, 20__, AT 6:00 P.M. AT DACONO CITY HALL ANNEX, 512 CHERRY AVENUE, BUILDING C, DACONO, CO.

READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this ____ day of _____, 2023.

CITY OF DACONO, COLORADO

Adam Morehead, Mayor

ATTEST:

Valerie Taylor, City Clerk

Summary of Ordinance No. 940, **“AN ORDINANCE PROHIBITING MOTORIZED VEHICLE, BOAT, EQUIPMENT, OR RECREATIONAL VEHICLE SALES, RENTAL, OR CONSIGNMENT IN ALL ZONE DISTRICTS OF THE CITY AND ADDING USE STANDARDS FOR MOTOR VEHICLE SERVICE FACILITIES”**: Prohibits motor vehicle, boat and RV sales and related activities in all zone districts and adds requirements for motor vehicle service facilities.



Meeting Date: February 27, 2023

Prepared By: Jennifer Krieger, AICP, Community Development Director

Agenda Item: Public hearing and consideration of Ordinance No. 940, an Ordinance amending Chapter 16 of the Dacono Municipal Code prohibiting motorized vehicle, boat, equipment, or recreational vehicle sales, rental, or consignment in all zone districts of the City and adding use standards for motor vehicle service facilities, on first reading.

Summary

The Chapter 16 amendments would prohibit motor vehicle, equipment, and boat sales, rental, and leasing in all zone districts of the City. Motor vehicle service is divided into two categories: motor vehicle service, major, and motor vehicle service, minor. Motor vehicle service, minor would be allowed by special use permit in the C-1 Commercial District. Motor vehicle service, major would be only permitted in the I-1 Light Industrial District subject to industrial use approval.

Background

On December 20, 2021, the City Council adopted by emergency Ordinance 920. This ordinance enacted a moratorium on the issuance of a building permit, business license, or land use approval for the development, construction, or operation of new or additional motorized vehicle, boat, equipment, or recreational vehicle sales, service, rental or consignment uses within the City until September 30, 2022. The adoption of Ordinance 932 extended the moratorium until March 31, 2023. The City Council held a work session on January 31, 2023, to review the draft ordinance.

During the period of the temporary moratorium, the City retained the consulting services of Galloway & Company, Inc., HR Green, and Harvey Economics to complete background research, develop options, and offer recommendations for future land use and development within the City.

The City Council will consider the adoption of the I-25 Sub-area Plan on February 13, 2023. Once adopted, it will be an amendment to the City's Comprehensive Plan.

Proposed Regulations

- Amends Section 16-38.5 Defines electric charging vehicle station
- Amends Section 16-60 Defines motor fuel filling station
- Amends Chapter 16, Article 2 of the Dacono Municipal Code (Definitions) and adds new Sections 16-60.2, 16-60.4 and 16-60.6
 - Defines motor vehicle, equipment, and boat sales, rental, and leasing.
 - Defines motor vehicle service, major.
Motor vehicle service, major means general repair or reconditioning of engines, air conditioning systems, and transmissions for automobiles, recreational vehicles, and commercial vehicles, and wrecker or towing services; collision services including body, frame, or fender straightening or repair, customizing, or painting; undercoating and rust proofing; and including those uses

listed under minor motor vehicle service or any other similar use.

Defines motor vehicle service, minor.

Motor vehicle service, minor means minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as changing grease, oil, spark plug, and filter changing; emergency road service; replacement of starters, alternators, hoses, brake parts; performing brake inspections and making minor repairs necessary to pass inspection; normal servicing of air conditioning systems; and other similar minor services for motor vehicles, but not including any operations or uses listed under major motor vehicle service or any similar use.

Amends Section 16-10

Sec. 16-10 Prohibited uses.

(o) Motor vehicle, equipment, and boat sales, rental, and leasing are prohibited in all zone districts of the City.

Amends Section 16-181
General requirements

Amends the C-1 Commercial District to list *Motor vehicle services, minor*; as a special use.

Amends Section 16-200

Sec. 16-200. Permitted uses.

Permitted principal uses in the I-1 district shall be as follows:

(22) Motor vehicle services, major.

All uses in the I-1 Light Industrial District are subject to industrial use approval as required by DMC Section 16-201.

Amends Section 16-207

Sec. 16-207 Other requirements.

Other provisions and requirements in the I-1 district shall be as follows:

(2) Any outdoor storage associated with a major motor vehicle service facility shall be completely screened with a wall surrounding the storage area. The wall shall be architecturally compatible with the primary structure, including, but not limited to, materials, color, roof pitch, and detailing, and be a minimum of six (6) feet in height.

Amends Section 16-376

Motor vehicle service, minor remains a special use in the C-1 Commercial District with additional criteria.

Sec. 16-373. Criteria for decisions.

The applicant shall have the burden of proof to clearly establish at the public hearings that the proposed special use meets the following criteria and is otherwise in compliance with this Article:

(6) Additional use standards for motor vehicle service facilities. Motor vehicle service, minor: Overnight

outdoor storage of vehicles shall be limited to the number of service bays, and overnight outdoor storage of any vehicle shall not exceed a 24-hour period.

Nonconforming Uses

Chapter 16, Article 14 regulates nonconforming uses. All existing motorized vehicle, boat, equipment, or recreational vehicle sales, service, rental, or consignment businesses existing at the time of the enactment of these code amendments can continue to operate as nonconforming uses.

Nonconforming uses can make ordinary repairs and maintenance. Nonconforming uses cannot be extended. Wherever a nonconforming use has been discontinued for a period of one hundred eighty (180) days, such use shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of current ordinances.

Conformance with Comprehensive Plan

The recent completion and adoption of the I-25 Sub-Area Plan as an amendment to the Comprehensive Plan aligns the future development with market opportunities. This Plan now serves as a guide to stimulate growth and private investment within the City through well-planned land use and targeted revitalization efforts. Specific goals include:

Goal 1: Enhance the aesthetic appeal of the study area and gateway to Dacono.

- Objective 1: Create attractive gateways into the community at the I-25 interchanges and other key intersections.
- Objective 2: Improve the aesthetic appeal of development with quality landscape improvements and also require outdoor storage areas to be well screened visually from the public right-of-way.
- Objective 3: Partner with existing businesses that include outdoor storage areas to improve current visual screening.
- Objective 4: Explore relocation options for businesses identified as incompatible or less desirable (i.e., junk and salvage yards) to eliminate these uses from within the study area.

Goal 2: Maximize the benefits of high visibility along I-25 Sub-Area

- Objective 1: Encourage new growth along the east side of I-25 with businesses that desire high visibility. Leave view corridors to these new growth areas from I-25.
- Objective 2: Improve Dacono's economic condition by creating well-paying jobs and revenue for the City.
- Objective 3: Maximize commercial and retail land uses to gain market share in the region, which will benefit the City financially and the residents as it minimizes travel for these services.

Goal 4: Ensure future land use compatibility

- Objective 1: Encourage development that promotes desirable land uses, as appropriate, to ensure quality and harmonious development as Dacono grows in the future
- Objective 2: Provide logical land use transitions between existing and future development types with intensity scaling (e.g., light industrial uses to commercial retail to multi-family residential, etc.) while also using open space or existing natural features (e.g., drainageways) whenever possible as buffers and transitions.

Planning and Zoning Commission Recommendation

On February 14, 2023, the Planning and Zoning Commission held a notice public hearing and voted to recommend amendments to Chapter 16 of the Dacono Municipal Code prohibiting motorized vehicle, boat, equipment, or recreational vehicle sales, rental, or consignment in all zone districts of the City and adding use standards for motor vehicle service facilities.

Recommendation

Staff recommends approval of amendments to Chapter 16 prohibiting motorized vehicle, boat, equipment, or recreational vehicle sales, rental, or consignment in all zone districts of the City and adding use standards for motor vehicle service facilities finding:

1. The City Council adopted Resolution 21-15, which includes a comprehensive set of policies and plans to enhance its future growth and coordinate economic development efforts.
2. The proposed amendments to Chapter 16 advance the City Council's objective to facilitate development that targets specific identified needs within the City, both in the short term and the long term, in part by identifying development that does not contribute to the City's goals, in order to not miss the opportunity to drive impactful economic development to the City and risk losing residents and new businesses to surrounding communities as the regional markets continue to evolve and expand.