

**ORDINANCE NO. 867**

**AN ORDINANCE AMENDING CHAPTER 16 OF THE DACONO MUNICIPAL CODE REGARDING SITE PLANS AND USES IN THE C-1 COMMERCIAL ZONE DISTRICT**

**WHEREAS**, Chapter 16 of the Dacono Municipal Code sets forth the City's zoning ordinances and regulations, including requirements for site plans; and

**WHEREAS**, the City Council has determined that certain amendments as set forth herein are necessary and desirable to the orderly development of property located within the City and to ensure compatibility of land uses; and

**WHEREAS**, the City Council finds and declares it has the power and authority to adopt this ordinance pursuant to 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), 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.** Section 16-180 of the Dacono Municipal Code, regarding permitted uses in the C-1 Commercial District, is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

**Sec. 16-180. Permitted uses.**

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

- (1) Amusement and recreation, theaters, bowling alleys, skating rinks and dancehalls;
- (2) Food and beverage serving, restaurants, nightclubs, taverns and liquor stores;
- (3) Hotels and **motels**;
- (4) Laundry and dry cleaning establishments;
- (5) ~~Laboratories, research;~~
- (6) ~~Motor vehicles, sales and servicing;~~
- (7) ~~Motor fuel filling stations and garages;~~

(8 5) Offices, business, professional and agencies;

(9 6) Personal services;

~~(10) Preparation or processing of goods or products for retail sales on premises only;~~

(~~11~~ 7) Retail businesses;

(~~12~~ 8) Tourist facilities, courts, motels;

(~~13~~ 9) Printing, publishing and reproduction establishments;

(~~14~~ 10) Religious and educational institutions and other municipal uses;

(~~15~~ 11) Public utilities;

(~~16~~) [~~Reserved.~~]

(~~17~~ 12) Personal wireless service facilities, if approved pursuant to a special review permit by resolution of the City Council following compliance with the notice and public hearing procedures of Chapter 16, Article 23 of this Code, except that no personal wireless service facilities may be located on an educational institution. The City Council may reject, approve or approve with conditions a request for such a special review permit. If granted, such a special review permit shall not run with the land, shall apply only to the specific applicant for whom the permit was approved and shall cease immediately upon termination of such use by said applicant or in the event of any noncompliance with the conditions of such permit imposed by the City Council in connection with its approval.

**Section 2.** Section 16-181 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:

(1) Goods sold shall consist primarily of new merchandise and any goods produced on the premises shall be sold at retail on the premises unless otherwise permitted in this Article for special uses.

(2) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, noise, vibration, refuse matter of water-

carried waste as determined by the Planning Commission and City Council.

(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 approval~~ special use permit approval ~~by the Planning Commission~~ as required by Sec. 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. Motor vehicles, sales and servicing;
- f. Motor fuel filling stations and garages;
- g. Preparation or processing of goods or products for retail sales on premises only.
- h. Laboratories, research.
- i. Tourist facilities.

(4) Residence for the proprietor and family, the caretaker or night watchman of a permitted commercial use shall be allowed, subject to approval by the Planning Commission and City Council and provided that the following are met: a. The living area is entirely segregated from the commercial use area by permanent walls with access by means of a door or doors; b. The living area shall have its own separate toilet facilities, living area, sleeping area and kitchen facilities, not for use by customers; c. The living area complies with all building and zoning regulations and all applicable codes; d. The living area shall clearly be an accessory use only; e. The living area shall be designed as a single-family living unit; f. Adequate off street parking shall be available in addition to that parking required for the commercial use.

**Section 3.** Section 16-573 of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

**Sec. 16-573. Design requirements.**

The following design requirements shall be considered in the evaluation of a site plan:

(1) Conformance with all applicable provisions of the underlying City zone district requirements in which the site is located and consistency with the intent of this Chapter.

(2) Conformance with all applicable provisions of all related development plans, such as approved subdivision plats and/or PUD plans.

~~(2-5~~ 3) For a site plan for property upon which is located an existing oil and gas facility, as defined in Section ~~46-522~~ 16-521, conformance with the access, fencing and screening requirements set forth in Section 17-96 of this Code.

~~(3~~ 4) Conformance with all applicable provisions of the City's adopted Baseline Standards, adopted architectural design standards, and landscaping, and parking, and open space requirements.

~~(4~~ 5) Conformance with all applicable City Standards and Specifications for the Design and Construction of Public Improvements, both on- and off-site.

(6) Compatibility with surrounding existing and proposed uses and any adverse impacts on the surrounding land uses and neighborhoods. The site plan application and related materials must demonstrate the proposed site plan will result in the least possible detrimental impact to the site and surrounding areas and will be designed so as not to cause substantial depreciation of property values or reduce the safety, light, or general convenience of neighboring developments.

(7) Location, lighting and type of signs; and relation of signs to traffic control and adverse effect on adjacent properties.

(8) Site Design Characteristics. All elements of site design shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by this Code. The site shall be designed to conform to all provisions of this Code. Redevelopment of existing sites shall be brought into conformance with all site improvement provisions of this Code relative to and proportionate to the extent of redevelopment, as determined by the Planning Commission and City Council.

(6 9) Conformance with state, federal and/or local environmental standards, including but not limited to air quality, water quality, glare and heat, noise, vibration, odors, hazardous materials, storage and disposal of waste, electromagnetic interference and radiation.

(7 10) Adequate facilities will be provided for pedestrians, bicyclists and motorists.

~~(8) Adequate public improvements (both on and off site) will be provided in a timely fashion.~~

(9 11) Conservation of energy, water and other resources is optimized on a site-specific scale.

~~(10 12) Any common areas serving the site are identified, and adequate provisions are made for the ownership and maintenance of such areas.~~

~~(11 13) The proposal justifies any proposed deviations from this Code in terms of the overall quality of the plan.~~

(14) Density. If the density is different from those of adjacent properties, specific steps are to be taken to achieve compatibility. For multi-family residential site plans abutting residential zones of lower density, the development shall provide for transitions in density and building height to protect the character of the lower-density residential areas.

(15) Control of nuisance impacts. The proposed development controls nuisance impacts on itself and surrounding land uses including heat and glare, traffic congestion, noise, arrangement of signs and lighting, features to prevent littering and accumulation of trash, the amount and quality of storm drainage, the provision of adequate light and air, compatible screening of rooftop mechanical units, and other factors deemed to affect public health, safety and general welfare.

(16) Ingress to and egress from property and internal circulation including access of service and emergency vehicles and design of off-street parking and loading areas.

(17) Recreation and open space with attention to the location, size and development of the areas with regard to their usability, adequacy, and their relationship to community-wide open spaces and recreation facilities (for multi-family residential developments).

(18) Adequacy and convenience of off-street parking and loading facilities.

(19) Traffic Impact. The expected volume of traffic to be generated by the proposed use shall not adversely impact existing roads and the circulation thereon. Driveways shall be located to minimize conflict with traffic operations on the adjoining road. The number of driveways shall be the minimum needed to provide reasonable access to the site.

**Section 4.** Section 16-578 of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

**Sec. 16-578. Amendments.**

(a) No changes may be made in an approved site plan unless a site plan amendment is approved by the City. An amendment to a site plan shall follow the same procedures set forth herein for initial approval, except the Community Development Director may authorize minor changes in the overall plan that do not:

(1) Alter the basic relationship of the proposed development to adjacent properties;

(2) Change the uses permitted;

(3) Increase the maximum density, floor area ratio or height;

(4) Decrease the amount of required off-street parking;

(5) Decrease setbacks, unless the setbacks after amendment would still meet the minimum requirements of the underlying zone district; ~~or~~

(6) Reduce the minimum yards required at the boundary of the site.

(7) Replace plant material specified in the landscape plan with materials of smaller size; or

(8) Change or alter building elevations or building materials to those deemed by the Community Development Director to be of lower quality.

(b) Any administrative amendment granted pursuant to this Section shall be transmitted to the Planning Commission and City Council for their information by written memorandum from the Community Development Director. An

applicant may appeal the decision of the Community Development Director to the Planning Commission.

(c) Approved amendments to a site plan shall be recorded with the Weld County Clerk and Recorder by the City at the applicant's expense.

**Section 5.** Any person charged with a violation of this ordinance, upon conviction thereof, shall be subject to the General Penalty in Section 1-70 of the Dacono Municipal Code, which provides for incarceration for a period not to exceed one (1) year, a fine not to exceed one thousand dollars (\$1,000.00), or both such fine and imprisonment. As provided in Section 1-70(b), each and every day during any portion of which any violation is committed, continued or permitted shall be a separate violation, and the violator shall be punished accordingly.

**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.

**INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED BY TITLE this 8<sup>th</sup> day of April, 2019.**

**PUBLIC HEARING AND SECOND READING WILL BE THE 22<sup>nd</sup> day of April, 2019, AT 6:00 P.M. AT DACONO CITY HALL, 512 CHERRY STREET, DACONO, CO.**

**READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.**

CITY OF DACONO, COLORADO

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Joe Baker, Mayor

ATTEST:

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Valerie Taylor, City Clerk

Summary of Ordinance No. 867, **“AN ORDINANCE AMENDING CHAPTER 16 OF THE DACONO MUNICIPAL CODE REGARDING SITE PLANS AND USES IN THE C-1 COMMERCIAL ZONE DISTRICT”** Amends the permitted uses in the C-1 Commercial zone district and amends design standards and requirements for site plans.