

ORDINANCE NO. 877

AN ORDINANCE AMENDING THE DACONO MUNICIPAL CODE CONCERNING INCARCERATION OF MUNICIPAL OFFENDERS

WHEREAS, during the 2019 legislative session, the Colorado General Assembly enacted House Bill 19-1148, which decreased the maximum period of incarceration a municipal court may impose for violations of municipal ordinances from twelve months to 364 days; and

WHEREAS, the City Council desires to amend various sections of the Dacono Municipal Code to cause the City's penalty clauses to comply with House Bill 19-1148.

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

Section 1. Section 1-70(a) of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 1-70. Designated.

(a) General Penalty.

(1) Any person who pleads guilty or no contest to or who, after trial, is found guilty and convicted of violating any municipal ordinance in the municipal court may be incarcerated for a period not to exceed three hundred and sixty-four days ~~one (1) year~~ or fined an amount not to exceed one thousand dollars (\$1,000.00), or both such fine and imprisonment, except as may be otherwise imposed within the context of a specific section, subsection, ordinance or applicable city charter provision.

(2) In sentencing or fining a violator, the municipal judge shall not exceed the sentence or fine limitations established by ordinance. Any other provision of the law to the contrary notwithstanding, the municipal judge may suspend the sentence or fine of any violator and place him or her on probation for a period not to exceed three hundred and sixty-four days ~~one (1) year~~.

(3) The municipal judge is empowered in his or her discretion to assess costs, as established by the municipal governing body by ordinance, against any defendant who pleads guilty or nolo contendere, or who enters into a plea agreement or who, after trial, is found guilty of an ordinance violation.

(4) Notwithstanding any provision of law to the contrary, a municipal court has the authority to order a child under eighteen (18) years of age confined in a juvenile detention facility operated or contracted by the department of institutions for failure to comply with a lawful order of the court, including an order to pay a fine. If a juvenile facility is not available, the child may be confined

in an adult facility so long as he or she is separated from adult offenders, as required by Section 19-2-204(4), C.R.S. Any confinement of a child for contempt of municipal court shall not exceed forty-eight (48) hours.

Section 2. Section 3-15 of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Section 3-15. Fines and Penalties for Ordinance Violations.

No fine for the violation of an ordinance adopted by the Council shall exceed one thousand dollars (\$1,000.00) for each violation, and no sentence of imprisonment for the violation of an ordinance adopted by the Council shall exceed three hundred and sixty-four days ~~one (1) year~~ year for each violation. Each and every day during any portion of which any such violation is committed, continued, or permitted shall be considered a separate violation.

Section 3. Section 10-140(b) of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 10-140. Gang activity.

(b) Any person who engages in an illegal act which is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, shall be subject to an additional and separate charge of violating this provision and shall be subject to the penalty provisions in Section 1-70 of this Code. ~~punished by a fine of not more than one thousand dollars (\$1,000.00) or one (1) year incarceration or both.~~

Section 4. Section 16-539(b) of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 16-539. Violation and enforcement.

(b) Penalty. Any person, firm, corporation or legal entity that constructs, installs or uses, or which causes to be constructed, installed or used, any oil, gas or injection well, well site or production site or commits any act or omission in violation of any provision of this Article or of the conditions and requirements of the oil and gas special use permit shall be subject to the penalty provisions in Section 1-70 of this Code. ~~may be punished by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.~~ Each day of such unlawful operation constitutes a separate violation.

Section 5. Section 18-73(11) of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 18-73. Amendments.

(11) Subsection 109.4 is amended to read as follows:

109.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor and shall be subject to the penalty provisions in Section 1-70 of this Code. ~~punishable by a fine of not more than one thousand (\$1,000.00) dollars or by imprisonment not exceeding one (1) year, or both such fine and imprisonment.~~ Each day during which such violation continues, shall be deemed a separate offense.

Section 6. Section 18-78(a) of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 18-78. Penalty for violation.

(a) Persons who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this Code, shall be guilty of a misdemeanor and shall be subject to the penalty provisions in Section 1-70 of this Code. ~~punishable by a fine of not more than one thousand (\$1,000.00) dollars or by imprisonment not exceeding one (1) year, or both such fine and imprisonment.~~ Each day during which such violation continues, shall be deemed a separate offense.

Section 7. If any 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 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 repeal or modification of any provision of the Municipal Code of the City of Dacono by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any prior 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.

INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED BY TITLE this 28th day of October, 2019.

PUBLIC HEARING AND SECOND READING WILL BE THE 11th day of November, 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

Joe Baker, Mayor

ATTEST:

Valerie Taylor, City Clerk

Summary of Ordinance No. 877, **“AN ORDINANCE AMENDING THE DACONO MUNICIPAL CODE CONCERNING INCARCERATION OF MUNICIPAL OFFENDERS,”** Decreases the maximum period of incarceration the Municipal Court may impose for violations of municipal ordinances from twelve months to 364 days.

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