

ORDINANCE NO. 766

AN EMERGENCY ORDINANCE AMENDING CHAPTER 10 OF THE DACONO MUNICIPAL CODE TO IMPOSE A BAN ON THE PERSONAL USE OF FIREWORKS.

WHEREAS, pursuant to C.R.S. § 31-15-601(1)(j), the City may regulate and prohibit the use of fireworks within the City; and

WHEREAS, the State of Colorado is experiencing high temperatures and severe drought conditions, which have resulted in at least 344 reported wildfires that have burned over 120,000 acres; and

WHEREAS, in response to the high fire danger present throughout the state, Colorado Governor John Hickenlooper has enacted Executive Order D 2012-015, which imposes a state-wide ban on open burning; and

WHEREAS, in such Executive Order, “open burning” is defined to include fireworks, but does not include municipal fireworks displays where specific written approval has been granted by the county sheriff; and

WHEREAS, in such Executive Order, Governor Hickenlooper has stated that should a wildfire occur as the result of the granting of an exemption to the Order, the state of Colorado may, and likely would, deny access to state funds to pay for the costs of such wildfire; and

WHEREAS, due to the high temperatures and drought conditions, the City Council finds the personal use of fireworks to be a hazard to public health, safety and general welfare; and

WHEREAS, an emergency exists because it is deemed to be in the best interest of the public health, safety and general welfare to immediately prohibit the possession, sale and use of fireworks within the City as set forth herein.

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

Section 1. Chapter 10 of the Dacono Municipal Code is hereby amended by the addition of a new Section 10-92 to read as follows:

Sec. 10-92. Fireworks.

(a) In this section, “fireworks” means any article, device, or substance prepared for the primary purpose of producing a visual or auditory sensation by

combustion, explosion, deflagration, or detonation including without limitation the following articles and devices: Toy cannons or toy canes in which explosives are used, blank cartridges, firecrackers, torpedoes, skyrockets, rockets, Roman candles, Daygo Bombs, aerial shells, sparklers, trick matches, torches, fountains, or other fireworks of like construction, and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance.

(b) No person shall sell, offer for sale, or possess with the intent to offer for sale any fireworks in the City; and no person shall place any fireworks into any fire; and no person shall possess any fireworks while in any park, parkway, street, recreation area, or open space, or use or explode any fireworks on any public or private property. The police chief or his designee may seize, take, remove, and destroy, at the expense of the violator, any and all fireworks offered or exposed for sale, stored, held, or possessed in violation of this subsection (b).

(c) The provisions of this section do not apply to the use of blank cartridges at bona fide sporting events, or to highway flares, smoke candles and other emergency signal devices, when used for emergency or public safety purposes.

(d) The provisions of this section do not apply to approved municipal fireworks displays by the City.

Section 2. 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 3. 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 4. 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 5. 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. This ordinance shall be effective upon adoption and approval by the Mayor.

INTRODUCED, READ, ADOPTED BY AT LEAST FIVE AFFIRMATIVE VOTES,
AND ORDERED PUBLISHED IN FULL THIS 25th day of June, 2012.

CITY OF DACONO, COLORADO

Charles Sigman, Mayor

ATTEST:

Valerie Taylor, City Clerk

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Summary of Ordinance No. 766, "AN EMERGENCY ORDINANCE AMENDING CHAPTER 10 OF THE DACONO MUNICIPAL CODE TO IMPOSE A BAN ON THE PERSONAL USE OF FIREWORKS.": Makes it unlawful for a person to possess, sell or explode fireworks.