

**ORDINANCE NO. 772**

**AN ORDINANCE AMENDING CHAPTER 6 (BUSINESS LICENSES AND REGULATIONS) TO PROHIBIT MARIJUANA ESTABLISHMENTS IN THE CITY OF DACONO**

**WHEREAS**, Colorado voters approved an amendment to the State Constitution, Article XVIII, Section 16, which allows in part for the retail sale and cultivation of marijuana in the State of Colorado (“Amendment 64”); and

**WHEREAS**, Amendment 64 authorizes local governments, such as the City of Dacono, to “prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores through the enactment of an ordinance”; and

**WHEREAS**, the City by Ordinance No. 765 made findings regarding the detrimental secondary effects experienced by other communities following the location of medical marijuana businesses within their communities, including increased burglaries and other crimes and increased traffic problems, and prohibited operation of medical marijuana businesses within the City in order to protect the health, safety and welfare of 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), Article XX of the Colorado Constitution (concerning municipal home rule), and the City of Dacono Home Rule Charter ; and

**WHEREAS**, the City Council has carefully considered the provisions of Amendment 64 and the impact of operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, retail marijuana stores, and marijuana clubs on the health, safety and welfare of the City and its inhabitants, finds the detrimental secondary effects would be similar to those of medical marijuana dispensaries, and thus finds that such businesses have an adverse effect on the health, safety and welfare of the City and its residents; and

**WHEREAS**, the City Council further finds and determines as a matter of the City’s local land use and zoning authority, and consistent with the authority contained in Amendment 64, that no suitable location exists within the corporate limits of the City for the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, retail marijuana stores, and marijuana clubs and therefore such businesses should be prohibited within the limits of the City as set forth herein; and

**WHEREAS**, as an exercise of its local land use authority and police powers, that such marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing

facilities, retail marijuana stores, and marijuana clubs shall not be located within the corporate limits of 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.** Chapter 6 of the Dacono Municipal Code is amended by the addition of a new Article 12 entitled “Marijuana Establishments,” to read as follows:

**ARTICLE 12**

**Marijuana Establishments**

**Sec. 6-320 Definitions.**

For purposes of this Article 12, the following terms shall have the following meanings:

*Marijuana* means all parts of the plant of the genus *cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. “*Marijuana*” does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

*Marijuana accessories* means any equipment, products, or materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

*Marijuana club* means a business, occupation, or other commercial enterprise that allows members and their guests to consume marijuana or marijuana products on the premises.

*Marijuana cultivation facility* means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

*Marijuana establishment* means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a retail marijuana store, or a marijuana club.

*Marijuana product manufacturing facility* means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

*Marijuana products* means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

*Marijuana testing facility* means an entity licensed to analyze and certify the safety and potency of marijuana.

*Retail marijuana store* means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

*Person* means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

#### **Sec. 6-321 Marijuana establishments prohibited.**

It is unlawful for any person to operate, cause to be operated, or permit to be operated, any marijuana establishment within the City, and all such uses are hereby prohibited in any location within the City, including any area hereinafter annexed to the City.

**Section 3. Penalty.** In addition to any other penalties that may exist under state, federal and local laws, 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 4.** 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 5.** The repeal or modification of any provision of the City of Dacono ordinances 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 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.

**Section 6.** 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 BY TITLE AND POSTED IN FULL this 11<sup>th</sup> day of February, 2013.**

**PUBLIC HEARING AND SECOND HEARING WILL BE THE 25<sup>th</sup> DAY OF February, 2013, 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 25<sup>th</sup> day of February, 2013.**

CITY OF DACONO, COLORADO

  
\_\_\_\_\_  
Charles Sigman, Mayor

ATTEST:

  
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Valerie Taylor, City Clerk

**Summary of Ordinance No. 772, “AN ORDINANCE AMENDING CHAPTER 6 (BUSINESS LICENSES AND REGULATIONS) TO PROHIBIT MARIJUANA ESTABLISHMENTS IN THE CITY OF DACONO”:** Prohibits Marijuana establishments in the City of Dacono pursuant to the authority in Article XVIII, Section 16 (Amendment 64).