

ORDINANCE NO. 784

AN ORDINANCE AMENDING CHAPTER 10 OF THE DACONO MUNICIPAL CODE REGARDING THE PERSONAL USE OF FIREWORKS.

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

WHEREAS, pursuant to this authority, and in response to high temperatures and severe drought conditions that resulted in a state-wide ban on open burning issued by the Governor of Colorado, the City Council on June 25, 2012 adopted Ordinance No. 766, which prohibited the personal use of fireworks within the City; and

WHEREAS, the City Council finds the environmental conditions that existed in 2012, and which resulted in the personal use of fireworks to become a hazard to public health, safety and general welfare, and not currently being experienced; and

WHEREAS, there is not presently in effect either a City or state-wide ban on open burning; and

WHEREAS, the City Council desires to lift the ban imposed by Ordinance No. 766 and allow fireworks that are listed in state statute as “permissible fireworks” at any time when there has not been either a state-wide ban on open burning imposed by the Governor or an open burning ban within the City imposed by the City Council.

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

Section 1. Section 10-92 of the Dacono Municipal Code is hereby repealed and reenacted to read as follows:

Sec. 10-92. Fireworks.

(a) In this section, the following words shall have the following meanings:

(1) “Fireworks” shall be defined as set forth in C.R.S. § 12-28-101(3), as from time to time amended.

(2) Except during any state-wide or City ban on open burning as provided in subsection (c) below, when no fireworks shall be considered “permissible fireworks,” “permissible fireworks” shall be those

small fireworks devices set forth in C.R.S. § 12-28-101(8), as from time to time amended.

(3) “Prohibited fireworks” shall mean those fireworks that are not permissible fireworks.

(b) No person shall sell, offer for sale, or possess with the intent to offer for sale any prohibited fireworks in the City; and no person shall place any fireworks into any fire; and no person shall possess any prohibited fireworks while in any park, parkway, street, recreation area, or open space, or use or explode any prohibited fireworks on any public or private property.

(c) During any period when there is in effect in the State of Colorado a state-wide ban on open burning issued by Executive Order of the Governor that includes fireworks, or a ban on open burning within the City imposed by Council resolution, all fireworks shall be considered prohibited fireworks and it shall be unlawful for any person to sell, offer for sale, possess with intent to sell, or use or explode any fireworks on any public or private property within the City. The City Clerk shall post a notice on the City’s website to advise when all fireworks are prohibited within the City.

(d) The police chief or his designee may seize, take, remove, and destroy, at the expense of the violator, any and all prohibited fireworks offered or exposed for sale, stored, held, or possessed in violation of this Section.

(e) 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.

INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED BY TITLE this 9th day of June, 2014.

PUBLIC HEARING AND SECOND READING WILL BE THE 23rd day of June, 2014, 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 23rd day of June, 2014.

CITY OF DACONO, COLORADO



Charles Sigman, Mayor

ATTEST:



Valerie Taylor, City Clerk

Summary of Ordinance No. 784, "AN ORDINANCE AMENDING CHAPTER 10 OF THE DACONO MUNICIPAL CODE REGARDING THE PERSONAL USE OF FIREWORKS.": Allows the use of fireworks defined under state law as "permissible fireworks," provided there is not in effect a state-wide ban on open burning that includes fireworks.