

ORDINANCE NO. 870

AN ORDINANCE ADOPTING BY REFERENCE THE 2010 EDITION OF THE MODEL TRAFFIC CODE FOR COLORADO, WITH AMENDMENTS, AND SETTING FORTH ADDITIONAL REGULATIONS CONCERNING VEHICLES AND TRAFFIC.

WHEREAS, the Model Traffic Code for Colorado, published by the Colorado Department of Transportation and revised in 2010, embodies the rules of the road and vehicle requirements as set forth in Article 4 of Title 42 of the Colorado Revised Statutes; and

WHEREAS, §42-4-110(1) of the Colorado Revised Statutes authorizes local authorities to adopt by reference all or any part of the Model Traffic Code for Colorado; and

WHEREAS, §42-4-110 and §42-4-111 of the Colorado Revised Statutes authorizes local authorities to enact and enforce traffic regulations on roads and streets anywhere within their jurisdiction; and

WHEREAS, the City desires to adopt the 2010 revised edition of the Model Traffic Code for Colorado, with amendments, and to set forth penalties for violations thereof; and

WHEREAS, the City further desires to amend Chapter 8 of the Dacono Municipal Code to set forth additional regulations concerning vehicles and traffic.

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

Section 1. Section 8-2 of the Dacono Municipal Code is hereby repealed and reenacted to read as follows:

Sec. 8-2. Adoption.

Pursuant to Parts 1 and 2 of Article 16 of Title 31, C.R.S., there is hereby adopted by reference Articles I and II inclusive of the 2010 edition of the *Model Traffic Code for Colorado Municipalities*, promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 4201 East Arkansas Avenue, EP 700, Denver, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the city. The purpose of the ordinance codified herein and the code adopted herein is to provide for a system of traffic regulation

consistent with state law and generally conforming to similar regulations throughout the state and the nation. Three (3) copies of the Model Traffic Code adopted herein are now filed in the office of the city clerk, and may be inspected during regular business hours.

Section 2. Section 8-3 of the Dacono Municipal Code is hereby repealed and reenacted, to read as follows:

Sec. 8-3. Code conflicts.

The provisions of the Dacono Municipal Code shall control in the event of any conflict between the 2010 revised edition of the Model Traffic Code and the Dacono Municipal Code.

Section 3. Section 8-4 of the Dacono Municipal Code is hereby repealed and reenacted to provide for the following adoptions, modifications, or deletions to the Model Traffic Code adopted by this ordinance, to read as follows:

Sec. 8-4. Additions or modifications.

The following additions, amendments or deletions are made to Article I of the Model Traffic Code:

(1) Subsection (1) of Section 615, School zones - increase in penalties for moving traffic violations, is amended to read as follows:

(1) Penalties and surcharges will be doubled for any person convicted of a traffic infraction or a traffic offense in a school zone.

(2) Subsection (1)(b) of Section 614, Designation of highway maintenance, repair, or construction zones - signs - increase in penalties for speeding violations, is amended to read as follows:

(b) If maintenance, repair, or construction activities are occurring or will occur within four hours on a portion of a roadway that is not a state highway, the City may designate such portion of the roadway as a maintenance, repair, or construction zone. Penalties and surcharges will be doubled for any person convicted

of a traffic infraction or a traffic offense in a maintenance, repair, or construction zone that is designated pursuant to this section.

(3) Section 1212, Parking of Certain Vehicles in Right-of-Way Prohibited, is added to read as follows:

Section 1212. Parking of Certain Vehicles Prohibited in Right-of-Way. (a) Except as provided in subsection (b), as defined herein, no trailer, camper trailer, trailer coach, camper coach, semitrailer, recreational vehicle, or mobile home, whether attached or detached from a motor vehicle, shall be parked on any public right-of-way in the City.

(b) Exceptions:

(1) Municipal vehicles and trailers.

(2) For visitation purposes not exceeding seventy-two (72) hours.

(3) For loading of the vehicle not exceeding twenty-four (24) hours.

(4) Section 1213, Restrictions on Overnight Sleeping in Motor Vehicles, is added to read as follows:

Section 1213. Restrictions on Overnight Sleeping in Motor Vehicles. (a) Except as provided in subsection (b), no motor vehicle, bus, trailer coach, camper coach, mobile home, self-propelled motor home, or recreational vehicle shall be used for sleeping overnight on any public or private street, public right-of-way, or public or private property within the City.

(b) Persons visiting a residence within the City may sleep overnight in a bus, trailer coach, camper coach, mobile home, self-propelled motor home, or recreational vehicle on a public or private street, public right-of-way, or public or private property within the City for no longer than seventy-two (72) hours.

(5) Section 1416, Restrictions on Motorized Traffic, is added to read as follows:

Section 1416. Restrictions on Motorized Traffic. No person shall operate any automobile, bus, motor vehicle, motor-driven cycle, motorized bicycle, motor scooter, motor bicycle, road machinery, road tractor, tractor, dirt bike, snowmobile, or any other motor-driven apparatus on any public or private property in the City, including but not limited to trails and walkways, unless such property has been dedicated or maintained as a public or private road, street, alley, highway, roadway or other area for the use of motorized vehicles, and unless operation on such property is not otherwise prohibited under the Model Traffic Code or other provisions of the Dacono Municipal Code. Motorized apparatus used for maintenance by City employees or by contractors with the City are excepted.

(6) Section 1701, Municipalities - Traffic Offenses Classified - Schedule of Fines, is amended to read as follows:

Section 1701. Municipalities - Traffic Offenses Classified - Schedule of Fines.

(1) It is a traffic offense for any person to violate any provision of this Code.

(2) Pursuant to C.M.C.R. 210(b)(4), the court may by order, which may from time to time be amended, supplemented or repealed, designate the traffic offenses, the penalties, fines and costs for which shall be payable at, receipted by and accounted for at the office of the City Clerk.

(3) The court shall, in addition to any other notice, by published order to be prominently posted in a place where fines are to be paid, specify by suitable schedules the amount of fines to be imposed for violations, designating each violation specifically in the schedules. Such fines will be within the limits set by ordinance.

(4) Penalties, fines and costs shall be payable at, receipted by, and accounted for at the office of the City Clerk.

(7) Section 1709, Penalty Assessment Notice for Traffic Offenses - Violations of Provisions by Officer - Driver's License, is repealed and reenacted to read as follows:

Section 1709. Penalty Assessment Notice for Traffic Offenses - Refusal. Whenever the defendant refuses to accept service of the penalty assessment notice, tender of such notice by the peace officer to the defendant shall constitute service thereof upon the defendant.

(8) The following sections of the Model Traffic Code are not adopted and are hereby deleted therefrom: Section 227(3)(b); Section 1402(2); Section 1412(10)(d); Subsections (1)(d), (1)(e) and (1)(f) of Section 1705; Section 1903(6)(b); and Section 1904.

Section 4. Section 8-5 of the Dacono Municipal Code is hereby repealed and reenacted, to read as follows:

Sec. 8-5. All-terrain vehicle restrictions and exceptions.

(a) Defined. For purposes of this chapter, all-terrain vehicle means a self-propelled wheeled or tracked vehicle primarily designed to be operated for recreational purposes on land, or on land and water, other than roads or highways. This definition shall include, but is not limited to, motorbikes, motor scooters, mopeds, motor bicycles, trail bikes, tote-goats, dune buggies, go-carts, snowmobiles, and three and four wheelers. All-terrain vehicle does not include any self-propelled wheeled or tracked vehicle equipped with all required safety equipment and licensed by the State. All-terrain vehicle does not include any low-power scooter or low-speed electric vehicle, as those terms are defined in the 2010 edition of the Model Traffic Code, as adopted by reference by the City.

(b) Restrictions.

(1) Except as provided in subsection (c), it shall be unlawful for any person to operate any all-terrain vehicle, whether registered or unregistered, on any public street, road, highway, right-of-way, alley, sidewalk, public parking lot, privately owned parking lot open to the public, park, open space or other public area within the City.

(2) Except as provided in subsection (c), it shall be unlawful for any person to operate any all-terrain vehicle, whether registered or unregistered, on any private property within the City.

(3) It shall be unlawful for any parent, guardian or any adult to authorize, assist, permit or encourage any minor to operate any all-terrain vehicle in violation of the provisions of this Section.

(c) Exceptions. This Section shall not apply to:

(1) The operation of all-terrain vehicles on private property by the owner of such private property or by a person having specific permission of the owner of the property to operate an all-terrain vehicle on the owner's property. The operation of an all-terrain vehicle on private property shall not generate noise or dust pollution, erosion or fire hazards on such property or neighboring properties.

(2) The operation of golf carts in areas maintained and zoned or approved for golf cart use.

(3) The operation of all-terrain vehicles during emergency conditions declared by the proper state or local authority.

(4) The operation of all-terrain vehicles that are authorized service vehicles used for snow removal or for other municipal purposes. Authorized service vehicles shall be limited to City vehicles and City contractor vehicles used for municipal purposes, and all-terrain vehicles owned and operated by the City or a private business engaged in the business of snow removal. For purposes of this Section, the use of all-terrain vehicles by a private business engaged in the business of snow removal shall be limited to removal of snow on streets, sidewalks, driveways and parking lots.

(5) A motorized wheelchair used for transportation purposes by a handicapped, infirm or disabled person. The operator of a motorized wheelchair shall ensure that the wheelchair is equipped with a flag on a whip antenna. The flag shall be made of reflective material of such size and color to be visible from a distance of one hundred (100) feet to the front or rear of the wheelchair, regardless of weather conditions.

(6) The operation of a recreational vehicle for agricultural purposes on the private property owned or leased by the operator of the recreational vehicle or any person employed by such owner.

(7) Any person granted an exception in writing by the City Manager or the City Manager's designee.

Section 5. Section 8-6 of the Dacono Municipal Code is hereby repealed and reenacted, to read as follows:

Sec. 8-6. Designation of truck routes, maps.

(a) The City Council shall have the authority to designate by resolution those streets, highways, public ways or any portion thereof upon which trucks shall operate, to be reflected as "Designated Truck Routes" on the *Designated and Restricted Truck Route Map*. The City Council shall have the authority to restrict by resolution the operation of certain trucks upon streets, highways, public ways or portions thereof, to be reflected as "Restricted Truck Routes" on the *Designated and Restricted Truck Route Map*. Such designations and restrictions shall be made upon the recommendation of the City Engineer or the Engineer's designee and shall be based upon traffic engineering investigations and studies, environmental considerations and neighborhood characteristics of affected areas. Such designations and restrictions shall be passed by resolution of the City Council, and failure of any person to comply with such resolution shall constitute a violation of this article.

(b) The City Engineer or the Engineer's designee shall maintain in his or her office the *Designated and Restricted Truck Route Map*. Copies of such map shall be made available to the public through the office of the City Clerk.

(c) The City Engineer or the Engineer's designee shall post with appropriate signs all Designated Truck Routes. The City Engineer or the Engineer's designee may also, in the City Engineer or the Engineer's designee's discretion, post Restricted Truck Routes with appropriate signs.

Section 6. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new Section 8-7, to read as follows:

8-7. Height, length and weight of vehicles.

(a) No person shall drive, move, stop or park on any public or private street, highway, highway structure any vehicle or vehicles of a size, weight or load that exceeds that allowed for such vehicle or vehicles under Sections 42-4-502 through 42-4-509, C.R.S., and the Model Traffic Code, Sections 507 and 508.

(b) No person shall drive, move, stop or park on any public or private street, highway, highway structure any vehicle or vehicles of a weight of more than twenty-six thousand (26,000) Gross Vehicle Weight Rating (GVWR) pounds.

(c) Subsections (a) and (b) notwithstanding, the vehicles and equipment specified in section 8-9(e) shall not be subject to the size and weight provisions of this article.

Section 7. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new Section 8-8, to read as follows:

8-8. Defenses.

(a) It is a specific defense to a charge of violating section 8-7 that the driving, moving, stopping and parking was on a state highway and in compliance with the terms of a permit issued in accordance with Section 42-4-510, C.R.S.

(b) It is a specific defense to a charge of violating section 8-7 that the driving, moving, stopping and parking occurred on a street that was not a state highway and was in compliance with a permit issued under the provisions of section 8-9 of this Code.

Section 8. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new Section 8-9, to read as follows:

8-9. Permits for oversized and overweight vehicles.

(a) Notwithstanding any provision of the Model Traffic Code, the City Engineer or the Engineer's designee is authorized to issue permits for oversize and overweight vehicles in accordance with this Section; provided that, persons operating overweight vehicles shall comply with any resolution passed by the City Council pursuant to Section 8-6.

(b) The City Engineer or the Engineer's designee may, upon application in writing and good cause being shown therefor, issue a single trip, daily, special or annual permit, in writing, authorizing the applicant to operate or move a vehicle, or combination of vehicles, of a size or weight of vehicle or load exceeding the maximum limits specified in this Article or otherwise not in conformity with the provisions of this Article. The application for any permit shall specifically describe: (1) the vehicle and load to be operated or moved; (2) the particular street or streets for which the permit to operate is requested; (3) whether such permit is for a single trip, daily, special or annual operation; (4) the maximum axle load; (5) the length of the vehicle between and including the front and rearmost bumper; (6) the height of the vehicle; (7) the approximate time(s) of such movement; and (8) such other information as the City Engineer or the Engineer's designee may reasonably require.

(c) The City Engineer or the Engineer's designee is authorized to issue or withhold a permit, as required by this Section. The City Engineer or the Engineer's designee may withhold a permit if the applicant fails to include any information required pursuant to subsection (b), or fails to post the bond as required pursuant to this subsection (c). The City Engineer or the Engineer's designee may also withhold a permit if the City Engineer or the Engineer's designee determines in his or her reasonable discretion that issuing the permit would endanger public health, safety or welfare. The City Engineer or the Engineer's designee may add conditions to any permit to limit the number of trips, or to establish other time limitations within which the vehicle(s) described may be operated on the streets indicated or otherwise to limit or prescribe conditions of operation of such vehicles when necessary to protect the safety of highway and street users, to protect the efficient movement of traffic from unreasonable interference or to protect the highways and streets from undue damage to the road foundations, surfaces or structures. In addition, unless waived by the City Engineer or the Engineer's designee for good cause, the owner of a vehicle requiring a permit shall provide to the City a bond in an amount to be determined by the City Engineer or the Engineer's designee, but not less than two-thousand five-hundred dollars (\$2,500.00), as security for damage to streets, highways or highway structures within the City.

(d) Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or any authorized agent of the City, and no person shall violate any terms or conditions of such permit.

(e) No permit shall be necessary for the following vehicles, and the vehicles or equipment specified in this Subsection (e) shall not be subject to size and weight provisions of this Article.

(1) Authorized emergency vehicles.

(2) Vehicles operated by local governments or political subdivisions.

(3) Implements of husbandry and farm tractors temporarily moved upon the highway or street, including transportation of such tractors or implements by a person dealing therein to his or her place of business within the State or to the premises of a purchaser or prospective purchaser within the State.

(4) Vehicles for refuse hauling purposes lawfully operating within the City pursuant to, and meeting the vehicle requirements set forth in, section 6-21 of this Code.

(f) The City Engineer or the Engineer's designee shall charge permit fees as follows:

(1) For over-length, over-width and over-height permits on loads of vehicles which do not exceed legal weight limits set forth in Sections 42-4-502 through 42-4-508, C.R.S., and the Model Traffic Code, Sections 507 and 508:

a. Annual permit, as set forth in the fee schedule adopted by resolution of the City Council.

b. Daily permit, as set forth in the fee schedule adopted by resolution of the City Council.

c. Single trip permit, as set forth in the fee schedule adopted by resolution of the City Council.

(2) For overweight permits for vehicles or loads exceeding the legal weight limits set by Sections 42-4-502 through 42-4-508, C.R.S., and the Model Traffic Code, Sections 507 and 508, up to two hundred thousand (200,000) pounds:

a. Daily permit, as set forth in the fee schedule adopted by resolution of the City Council.

b. Single trip permit, as set forth in the fee schedule adopted by resolution of the City Council.

(3) Special permits for structural, oversized or overweight moves requiring extraordinary City action or moves involving weight in excess of two hundred thousand (200,000) pounds, as set forth in the fee schedule adopted by resolution of the City Council. In addition, unless waived by the City Engineer or the Engineer's designee for good cause, the owner of a vehicle requiring a special permit shall provide to the City a bond in an amount to be determined by the City Engineer or the Engineer's designee, but not less than two-thousand five-hundred dollars (\$2,500.00), as security for damage to streets, highways or highway structures within the City.

(4) For overweight permits for vehicles or loads exceeding legal weight limits on restricted truck routes of more than twenty-six thousand (26,000) Gross Vehicle Weight Rating (GVWR) pounds, but not exceeding the weight limits set in Sections 42-4-502 through 42-4-508, C.R.S., and the Model Traffic Code, Sections 507 and 508:

a. Annual permit, as set forth in the fee schedule adopted by resolution of the City Council.

b. Daily permit, as set forth in the fee schedule adopted by resolution of the City Council.

c. Single trip permit, as set forth in the fee schedule adopted by resolution of the City Council.

d. Annual fleet permit, as set forth in the fee schedule adopted by resolution of the City Council. For the purposes of this subsection, "fleet" means any group of two (2) or more vehicles owned by one (1) person.

(g) The provisions of this Article shall not apply to the National System of Interstate and Defense Highways.

Section 9. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new Section 8-10, to read as follows:

8-10. Liability for damage to streets, highways or highway structures.

(a) No person shall drive, operate or move upon or over any street, highway or highway structure any vehicle, object or contrivance in such manner so as to cause damage to said street, highway or highway structure. When the damage sustained to said street, highway or highway structure is the result of the operating, driving or moving of such vehicle, object or contrivance weighing in excess of the maximum weight authorized by Sections 42-4-501 to 42-4-512, C.R.S., Model Traffic Code, Sections 507 and 508, or Section 8-7 of this Code, it shall be no defense to any action, either civil or criminal, brought against such person that the weight of the vehicle was authorized by special permit issued in accordance with Sections 42-4-501 to 42-4-512, C.R.S., Model Traffic Code Sections 507 and 508, or Section 8-9 of this Code.

(b) Any person who violates the provisions of subsection (a) above shall be liable for all damage caused to a City street, highway or highway structure as a result of such violation. Whenever the driver of a vehicle, object or contrivance is not the owner thereof, but is operating, driving or moving such vehicle, object or contrivance with the express or implied consent of the owner thereof, then said owner and driver shall be jointly and severally liable for all damage caused to a City street, highway or highway structure as a result of such person's violation of subsection (a). The liability for damage sustained by any such street, highway or highway structure may be enforced by a civil action by the City or other authority in control of such street, highway or highway structure. No satisfaction of such civil liability, however, shall be deemed to be a release or satisfaction of any penalties for violation of this chapter 8.

Section 10. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new Section 8-11, to read as follows:

8-11. Oil and Gas Rig Definition.

Oil and gas rig or drilling rig means the complex of equipment commonly used for the initial drilling of an oil and/or gas well. The oil and gas rig or drilling rig is commonly broken into multiple truck loads for transport to and from a well site.

Section 11. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new Section 8-12, to read as follows:

8-12. Oil and Gas Rig Transportation Permit and Bond Requirement.

(a) An Oil and Gas Rig Transportation Permit is required prior to moving a drilling rig within the City. The permit, when issued, is valid only on those roads under the jurisdiction of the City. To operate on roads under other jurisdictions, (state highways and county roads) it may be necessary to obtain a separate permit from the authorities having jurisdiction thereover. By issuing the Oil and Gas Rig Transportation Permit, the City will waive the required oversize or overweight permits for the truck carrying the Oil and Gas Rig equipment. A new permit shall be obtained each time the rig is moved. The permit fee for an Oil and Gas Rig Transportation Permit is as set by the fee schedule adopted by resolution. In addition, each applicant for a permit for the transport of the oil and gas rig shall provide to the City a bond in an amount to be determined by the City Engineer or the Engineer's designee, but not less than two hundred and ten thousand dollars (\$210,000.00), as security for damage to streets, highways or highway structures within the City. The City may also require the applicant for an Oil and Gas Rig Transportation Permit to pay the cost of a roadway impact study by an independent entity utilizing best engineering practices to determine the impact the oil and gas rig transport may have City roadways. The timeframe for conducting the study shall be specified in the permit. The City may increase or decrease the bond amount depending on the result of such study.

(b) Nothing in this Code is intended or shall be construed to exempt trucks transporting Oil and Gas Rig equipment from the provisions of Sections 8-6 and 8-10 of this Code.

Section 12. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new Section 8-13, to read as follows:

Sec. 8-13. Parking on certain streets prohibited.

No person shall be permitted to park any vehicle on a street or any portion of a street marked with signage prohibiting parking thereon.

Section 13. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new Section 8-14, to read as follows:

Sec. 8-14. Idling restriction.

(a) No person shall allow a motor vehicle to idle for more than ten (10) minutes in any one-hour period unless:

(1) The ambient outside air temperature has been less than twenty (20) degrees Fahrenheit for each hour of the previous twenty-four (24) hour period, in which case the such person may allow a vehicle to idle for not more than fifteen (15) minutes in any one-hour period; or

(2) The latest hourly ambient outside air temperature is less than ten (10) degrees Fahrenheit, in which case the such person may allow a vehicle to idle for not more than fifteen (15) minutes in any one-hour period.

(b) Subsection (a) notwithstanding, no person shall allow any vehicle to idle for more than five (5) minutes between the hours of 10:00 p.m. and 7:00 a.m.

(c) The idling restrictions in subsection (a) shall not apply to vehicles making deliveries or pickups, provided that such deliveries or pickups do not exceed thirty (30) minutes.

(d) The idling restrictions in subsections (a) and (b) shall not apply to emergency vehicles; to vehicles engaged in traffic control operations; to vehicles that are being serviced; to vehicles that must idle to operate auxiliary equipment, including but not limited to pumps, compressors or refrigeration units.

(e) The idling restrictions in subsections (a) and (b) shall not apply when idling is necessary while stopped for an official traffic control device; for an official traffic control sign; at the direction of a peace officer; for traffic conditions over which the driver has no control, including but not limited to being stopped in a line of traffic, at a railroad crossing, or in a construction zone; or to operate defrosters, heaters, air conditions or other equipment to prevent a safety or health emergency, but not solely for the comfort of the driver or passengers.

(f) The idling restrictions in subsections (a) and (b) apply to transportation vehicles, except that the time during which transportation vehicles are actively loading or discharging passengers may not be included in the computation of the time limitations provided for in subsections (a) and

(b). A transportation vehicle shall be defined for purposes of this section to mean motor vehicles designed to transport a minimum of sixteen (16) persons.

(g) This idling restrictions of this section shall apply regardless of whether the idling vehicle is on public or private property.

Section 14. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new Section 8-15, to read as follows:

Sec. 8-15. Designation of emergency snow routes and posting of signs.

(a) For purposes of this section, *emergency snow route* means all streets and highways designated as an "emergency snow route" by resolution of the City Council and for which a sign or signs have been posted in accordance with this Chapter.

(b) The City Council may designate or change emergency snow routes within the City by resolution based upon the City Council's determination as to which streets or highways should be free of parked, stopped or stalled vehicles when a snowstorm condition or severe snowstorm condition has been declared in accordance with the provisions of this Chapter, in order to facilitate snow removal.

(c) Along each street or highway entering the City, and which has been designated an emergency snow route, the City Engineer or the Engineer's designee shall cause to be posted traffic signs indicating that the street or highway has been designated an emergency snow route and that parking prohibitions shall apply. The lack of visibility of any such sign when parking restrictions are in effect shall not excuse the owner or operator of any vehicle from complying with the provisions of this Chapter.

(d) Whenever there are three (3) or more inches of non-drifted snow or enough sleet, snow or ice to cause a solid coating of sleet, snow or ice on any street designated an emergency snow route in the City, no owner of a motor vehicle or person in charge of a motor vehicle operated within the City limits shall allow the vehicle to remain parked, abandoned, standing or stopped on such street or highway. Any vehicle found parked, abandoned, standing or stopped on such street or highway is subject to removal and impoundment.

(e) In addition to the City's towing authority set forth in subsection (d) above, any person convicted of or who pleads guilty or no contest to subsection (d) above shall be guilty of a traffic infraction.

Section 15. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new Section 8-16, to read as follows:

8-16. Snow removal; no liability for City.

(a) The City and its officers, employees, contractors and agents shall not be liable for any costs or damages resulting from any act or omission in any way connected with or related to snow removal or the removal or impoundment of a vehicle pursuant to this Chapter.

(b) The City may elect from time to time to repair or pay for damage to private real or personal property. Such action shall in no way set a precedent or create the requirement to take such action.

Section 16. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new Section 8-17, to read as follows:

8-17. Commercial operators.

Persons operating private snowplows within the City limits shall completely clean all snow pushed onto the City streets and be liable for all damages which they cause to City property.

Section 17. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new Section 8-18, to read as follows:

Sec. 8-18. Motor vehicle sale and repair prohibited in parking areas and public right-of-way.

(a) Except as provided in subsection (b), no person shall (i) offer for sale, sell, offer for lease, lease, store, repair, dismantle, or service a motor vehicle, or (ii) knowingly allow another person to offer for sale, sell, offer for lease, lease, store, repair, dismantle, or service a motor vehicle, in a public or private parking area, on a private street, or in public right-of-way within the city.

(b) Subsection (a) is not intended and shall not be construed to prohibit (i) the sale or servicing by an owner of a motor vehicle parked in compliance with this chapter 8 on the owner's property, or (ii) the sale, storage, repair, dismantling, or servicing of any motor vehicles on the premises of a licensed auto dealer or auto repair shop.

Section 18. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new Section 8-19, to read as follows:

Sec. 8-19. Open marijuana containers and marijuana consumption in motor vehicle prohibited.

(1) Except as otherwise permitted in subsection (2) of this Section, a person while in the passenger area of a motor vehicle that is on a public highway of this state or the right-of-way of a public highway of this state may not knowingly:

- (a) Use or consume marijuana; or
- (b) Have in his or her possession an open marijuana container.

(2) The provisions of subsection (1) shall not apply to:

(a) Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

(b) The possession by a passenger, other than the driver or a front seat passenger, of an open marijuana container in the living quarters of a house coach, house trailer, motor home, as defined in C.R.S. Section 42-1-102 (57), or trailer coach, as defined in C.R.S. Section 42-1-102 (106) (a);

(c) The possession of an open marijuana container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or

(d) The possession of an open marijuana container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

Section 19. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new section 8-20, to read as follows:

Sec. 8-20. Parking on private property within the City.

No person shall park on private property except on an improved surface. For purposes of this section, improved surface means a surface comprised of asphalt, concrete, brick, cement pavers, or similar materials installed and maintained according to industry standards. The term improved surface does not include compacted/crushed stone, compacted gravel, landscape mulch or similar material, or recycled asphalt. Parking on lawns, whether public or private, is expressly prohibited within the city.

Section 20. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new section 8-21, to read as follows:

Sec. 8-21. - Application.

This Article shall apply to every street, alley, sidewalk area, driveway, park, to every other public way or public place or public parking area, either within or outside the corporate limits of the City, the use of which this City has jurisdiction and authority to regulate, and to private streets and private access easements located within the City. The provisions of Sections 1401, 1402 and 1413 of the adopted Model Traffic Code, respectively concerning reckless driving, careless driving and eluding a police officer, shall apply not only to public places and ways but also throughout the City.

Section 21. Article 1 of Chapter 8 of the Dacono Municipal Code is hereby amended by the addition of a new section 8-22, to read as follows:

Sec. 8-22. - Violations.

(a) It is unlawful for any person to violate any of the provisions of this article for which no specific penalty has been provided, which violations are hereby deemed traffic infractions. A traffic infraction shall be a civil matter for which punishment by imprisonment shall not be available, and for which a penalty assessment notice shall be issued. Every person who is convicted of a traffic infraction, who admits liability or guilt for a traffic infraction or against whom a judgment is entered for a traffic infraction, is subject to a penalty of at least ten dollars (\$10.00), but not more than three hundred dollars (\$300.00).

(b) For any violation of any provision of this article which is a traffic infraction, no trial by jury shall be available, no arrest warrant shall be issued for failure to appear or to pay, no privilege against self-incrimination shall apply, the standard of proof shall be a preponderance of the evidence, and the conduct of all proceedings applicable to such violation shall otherwise be in conformity with those generally applicable to civil matters.

(c) For any violation of any provision of this article which is a traffic infraction, the court may enter a judgment or liability by default against the defendant for failure to appear or to pay, and may assess such penalty together with such court costs and surcharges, as are established by law. The court may establish, by written order, rules and regulations for the administration of any violation of this article which is a traffic infraction, including but not limited to schedules establishing the amount of penalties payable without a court appearance, and schedules establishing discounts from those amounts for early payment of penalties. Such early payment discounts shall apply only to penalties paid within ten (10) days of issuance of the penalty assessment notice for the infraction.

(d) The city prosecutor may establish a prosecutor's plea bargain procedure, which shall be printed on the penalty assessment form and which, in conjunction with any early payment discount, shall provide for the automatic reduction of points assessed for a traffic infraction, subject to the following limitations:

(1) A four-point violation may be reduced to no less than a two-point violation; and

(2) A three- or a two-point violation may be reduced to no less than a one-point violation.

(e) It is unlawful for any person to violate any of the following provisions of this article, which violations are hereby deemed criminal offenses. Every person convicted of a violation of the following provisions of this article shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), exclusive of any court costs and surcharges, or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment.

(1) Section 1101 of the Model Traffic Code, where the speed as driven is twenty (20) miles per hour or more over the lawful speed.

(2) Section 1105 of the Model Traffic Code, speed contest.

(3) Section 1401 of the Model Traffic Code, reckless driving.

(4) Section 1402 of the Model Traffic Code, careless driving.

(5) Section 1409 of the Model Traffic Code, no insurance.

(6) Section 1413 of the Model Traffic Code, eluding or attempting to elude a police officer.

(7) Section 1903 of the Model Traffic Code, stopping for school buses.

Section 22. Section 8-34 of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 8-34. - Junked vehicles prohibited - Exceptions.

It is unlawful for any person to permit any junked vehicle to be left upon any public property or, being the owner or tenant in possession of any real property in the city, to cause or permit any junked vehicle to be put upon or kept upon any real property in the city, except that this section shall not apply to the following conditions which, if proven, shall constitute an affirmative defense hereunder:

(1) The vehicle is located upon the premises of a lawfully zoned vehicle repair business, lawfully zoned vehicle storage business, or lawfully zoned junkyard.

(2) The vehicle is stored within a completely enclosed structure. Such a structure shall comply with all applicable city ordinances.

(3) On a residential lot or parcel of real property, a maximum of one (1) vehicle per lot or parcel, in addition to any vehicle meeting the requirements of paragraph (2) of this section, shall be permitted if said vehicle is entirely covered with a ~~one (1) piece opaque heavy tarp or commercial~~ bona fide car

cover, securely fastened at all times, or is screened by a concealing fence not less than six (6) feet in height which renders the vehicle not visible to persons on adjacent private or public property. Such a fence shall comply with all applicable city ordinances.

(4) On a nonresidential lot or parcel of real property to which the provisions of paragraph (1) of this section do not apply, a maximum of one (1) vehicle only per lot or parcel, in addition to any vehicle meeting the requirements of paragraph (2) of this section, shall be permitted if said vehicle is screened by a concealing fence not less than six (6) feet in height which renders the vehicle not visible to persons on adjacent private or public property. Such a fence shall comply with all applicable city ordinances.

Section 23. 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 24. 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 25. 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 24th day of June, 2019.**

**PUBLIC HEARING AND SECOND READING WILL BE THE 8th day of July,
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 ONLY this ____ day of _____, 2019.**

CITY OF DAcono, COLORADO

Joe Baker, Mayor

ATTEST:

Valerie Taylor, City Clerk

6/10/19 10:32 AM [ncb] R:\Dacono\Ordinances\Ord Adopting MTC 2010 Edition (draft 6-10-19).docx

Summary of Ordinance No. 870, **“AN ORDINANCE ADOPTING BY REFERENCE THE 2010 EDITION OF THE MODEL TRAFFIC CODE FOR COLORADO, WITH AMENDMENTS, AND SETTING FORTH ADDITIONAL REGULATIONS CONCERNING VEHICLES AND TRAFFIC”**: Adopts the 2010 edition of the Model Traffic Code for Colorado with amendments; provides penalties for violations thereof; and sets forth additional regulations concerning vehicles and traffic.