

# **CITY OF DACONO**

## **HOME RULE CHARTER**

**1994**

Adopted by the electorate  
of the City of Dacono  
on April 5, 1994

Published by

Colorado Code Publishing Company  
Fort Collins, Colorado

## CHARTER TABLE OF CONTENTS

### PREFATORY STATEMENT

#### ARTICLE I GENERAL PROVISIONS

- Section 1-1 Name, Boundaries
- Section 1-2 Purpose of Charter
- Section 1-3 Form of Government
- Section 1-4 Powers of the City
- Section 1-5 Amendments to the Charter

#### ARTICLE II CITY COUNCIL

- Section 2-1 Council
- Section 2-2 Qualifications
- Section 2-3 Term
- Section 2-4 Compensation
- Section 2-5 Financial Interest Prohibited
- Section 2-6 State Conflicts of Interest Laws to Apply
- Section 2-7 Vacancies
- Section 2-8 Oath of Office
- Section 2-9 Mayor
- Section 2-10 Veto Powers of Mayor
- Section 2-11 Mayor Pro-Tem

#### ARTICLE III COUNCIL PROCEDURE

- Section 3-1 Meetings
- Section 3-2 Special Meetings and Business at Special Meetings
- Section 3-3 Quorum
- Section 3-4 Meetings to be Public
- Section 3-5 Council Acts
- Section 3-6 Voting; Voting Prohibited When
- Section 3-7 Action by Ordinance Required
- Section 3-8 Form of Ordinance
- Section 3-9 Procedure
- Section 3-10 Emergency Ordinances
- Section 3-11 Codification
- Section 3-12 Adoption of Codes by Reference
- Section 3-13 Public Records
- Section 3-14 Ordinance Review
- Section 3-15 Fines and Penalties for Ordinance Violations

#### ARTICLE IV ELECTIONS

- Section 4-1 Colorado Municipal Election Laws Adopted
- Section 4-2 Regular Elections
- Section 4-3 Special Elections
- Section 4-4 Conduct of Elections
- Section 4-5 Nominating Petitions

#### ARTICLE V INITIATIVE, REFERENDUM, AND RECALL

- Section 5-1 Initiative
- Section 5-2 Referendum
- Section 5-3 Recall
- Section 5-4 Council Referendum
- Section 5-5 Prohibited Action by Council

	Section 5-6	Withdrawal of petition
<b>ARTICLE VI</b>	<b>LEGAL AND JUDICIARY</b>	
	Section 6-1	City Attorney
	Section 6-2	Municipal Court
<b>ARTICLE VII</b>	<b>PERSONNEL AND ADMINISTRATION</b>	
	Section 7-1	Personnel Policies
	Section 7-2	Office of City Clerk
	Section 7-3	Office of Treasurer
	Section 7-4	Police Department
	Section 7-5	Public Works Department
	Section 7-6	General; Other Departments
	Section 7-7	City Administrator
<b>ARTICLE VIII</b>	<b>FINANCE AND BUDGET</b>	
	Section 8-1	Fiscal Year
	Section 8-2	Budget
	Section 8-3	Capital Program
	Section 8-4	Public Hearing
	Section 8-5	Council Action on Budget
	Section 8-6	Payments and Obligations Prohibited
	Section 8-7	Independent Audit
<b>ARTICLE IX</b>	<b>UTILITIES, FRANCHISES AND PERMITS</b>	
	Section 9-1	Acquisition or Improvement of Utilities
	Section 9-2	Utility Rates
	Section 9-3	Granting of Franchises
	Section 9-4	Existing Franchises
	Section 9-5	Revocable Permits or Licenses
<b>ARTICLE X</b>	<b>MUNICIPAL TAXES, BORROWING, PAYMENT OBLIGATIONS, AND SPENDING</b>	
	Section 10-1	Declaration of Intent
	Section 10-2	Limitations on Taxes
	Section 10-3	Limitations on Borrowing and Payment Obligations
	Section 10-4	Limitations on Fiscal Year Spending
<b>ARTICLE XI</b>	<b>BOARDS AND COMMISSIONS</b>	
	Section 11-1	Personnel Board
	Section 11-2	Functions of Personnel Board
	Section 11-3	Planning and Zoning Commission
	Section 11-4	Functions of Planning and Zoning Commission
	Section 11-5	Board of Adjustment and Appeals
	Section 11-6	Functions of Board of Adjustment and Appeals
	Section 11-7	Police Advisory Board
	Section 11-8	Functions of Police Advisory Board
	Section 11-9	Local Licensing Authority
	Section 11-10	Functions of Local Licensing Authority
	Section 11-11	General; Other Boards and Commissions
	Section 11-12	Boards and Commissions – Alternate Members Permitted
<b>ARTICLE XII</b>	<b>RETAIL PROJECTS</b>	
	Section 12-1	Retail Projects - Authorization for Pledge of Sales Tax
	Section 12-2	Retail Maintenance Districts

**ARTICLE XIII MISCELLANEOUS PROVISIONS**

- Section 13-1 Interpretation
- Section 13-2 Severability of Charter Provisions
- Section 13-3 Sale of Real Property
- Section 13-4 Bonding
- Section 13-5 Bequests, Gifts and Donations
- Section 13-6 Saturdays, Sundays, and Holidays
- Section 13-7 Penalty for Violation of Charter
- Section 13-8 Competitive Bidding

**ARTICLE XIV DEFINITIONS**

- Section 14-1 Definitions

**ARTICLE XV TRANSITIONAL PROVISIONS**

- Section 15-1 Effective Date of Charter
- Section 15-2 Prior City Legislation
- Section 15-3 Transition of Elected Officials' Terms
- Section 15-4 Continuation of Personnel
- Section 15-5 Transition of Boards and Commissions
- Section 15-6 Saving Clause

**CERTIFICATE OF ADOPTION**

**CERTIFICATE OF ELECTOR APPROVAL**

**PREFATORY SYNOPSIS**

The members of the Home Rule Charter Commission of the City of Dacono, Colorado, hereby submit to the City Council and to the registered electors a proposed Home Rule Charter which has been framed in conformity with Article XX of the Colorado Constitution and the Municipal Home Rule Act of 1971, as amended.

The Commission members have sought to prepare a Charter which provides a structure for strict financial accountability to the taxpayers, the effective, efficient, and fiscally responsible conduct of the City government, and the fullest possible participation in the affairs of the City by every member of the community.

In keeping with these goals, the Charter provides for a governing body composed of a Mayor and six Councilmembers elected at large for three-year overlapping terms. The form of government under the Charter remains a "Council-Mayor" form. To enhance opportunities for service as elected officials and to encourage fresh leadership, limitations are placed on the number of consecutive terms that may be served. The Council is required to review the Charter and all ordinances of a general and permanent nature on a regular schedule. Financial interest prohibitions and conflict of interest provisions are included.

The Commission members recognize that the Charter is a document of limitation on the home rule powers available to the City and its citizens, and so have sought to include in the Charter important protections for the citizens. Most importantly, the Charter assures the City's faithful commitment to the provisions of the Taxpayer's Bill of Rights, Article X, Section 20 of the Colorado Constitution; that commitment is reflected throughout in the language of the Charter. Under the Charter, taxing, spending, and debt matters will be decided only by the citizens and in accordance with the Taxpayer's Bill of Rights.

Provisions guaranteeing the citizen rights of initiative, referendum, and recall are included. Other citizen protections in the Charter include a mandatory public hearing on the proposed budget, the publication of ordinances, and an annual independent audit.

Other matters covered in the Charter include Council procedures, powers, and duties; legal and judiciary; methods of Council action by ordinance, resolution, and motion; elections; budget; utilities; franchises; and transitional provisions.

The Commission believes that this Charter provides a structure for a responsible government for the City of Dacono, now and in the future, that will maintain and enhance the quality of life of the citizens, assure fiscal responsibility and accountability, continue the growth and progress of the City, and continue to be responsive to the needs and concerns of the citizens.

## **ARTICLE I**

### **General Provisions**

#### **Section 1-1. Name, Boundaries.**

The municipal corporation now existing as the "City of Dacono" in the County of Weld, State of Colorado, shall remain and continue to be a body politic and corporate under the same name and with the same boundaries until lawfully changed.

#### **Section 1-2. Purpose of Charter.**

It is the purpose of this Charter to establish a basic governmental structure that will provide for the effective and efficient conduct of the business of the City. It is intended that the Charter shall provide for the fullest possible participation in the affairs of the City by every member of the community in the manner provided for herein.

#### **Section 1-3. Form of Government.**

The municipal government provided by this Charter shall be known as a Council-Mayor government.

#### **Section 1-4. Powers of the City.**

(a) The City shall have all the power of local self-government and home rule and all power possible for the City under the State Constitution. All such powers shall be exercised in a manner consistent with the United States Constitution, the State Constitution, and this Charter.

(b) Except as otherwise provided in this Charter, the City shall also have all powers granted to cities, towns, and municipalities by the State statutes.

(c) The enumeration of specific powers in this Charter shall not be considered as limiting or excluding any other power under Article XX of the State Constitution. All powers shall be exercised in the manner set forth in this Charter or, if not provided for in this Charter, in such manner as shall be provided by ordinance or resolution.

**Section 1-5. Amendments to the Charter.**

(a) This Charter may be amended in the manner provided in the State Constitution and the State statutes pertaining to home rule charter amendments. Proceedings to amend the Charter may be initiated by the filing of a petition meeting the requirements of said statutes or by an ordinance adopted by the City Council submitting the proposed amendment to a vote of the registered electors of the City.

(b) The Council shall review this Charter at least once every five (5) years after adoption, and at least once every five (5) years thereafter, for possible amendment.

**ARTICLE II**

**City Council**

**Section 2-1. Council.**

Subject to the limitations of this Charter, the governing body of the City shall consist of six (6) Councilmembers and the Mayor, all of whom shall be nominated and elected at large from the City. The Council shall have such authority as is possessed by the City and not conferred by this Charter on others.

**Section 2-2. Qualifications.**

(a) Each elected official shall be a registered elector at the time of nomination and election, or at the time of appointment to fill a vacancy, and shall have been a resident of the City or any territory annexed to the City for at least twelve (12) consecutive months immediately preceding such election or appointment.

(b) No person who has been convicted of embezzlement, bribery, perjury, solicitation of bribery, or subornation of perjury, shall serve as an elected official.

(c) No person may be elected as an elected official for more than three (3) consecutive three (3) year terms. (Amended by vote of the citizens of Dacono, November 1999, Ord. 530)

**Section 2-3. Term.**

(a) The Mayor and Councilmembers shall be elected for three (3) year overlapping terms, with the Mayor and two (2) Councilmembers elected at one (1) regular election, two (2) Councilmembers elected at the subsequent regular election, and two (2) Councilmembers elected at the next subsequent regular election.

(b) Elected officials shall take office at the first meeting, regular or special, following their election and shall continue in office until their successors have been elected or appointed and have complied with Section 2-8, or a vacancy is earlier established.

#### **Section 2-4. Compensation.**

Elected officials shall receive such compensation as may be prescribed by ordinance. No ordinance increasing such compensation shall be effective until approved by the registered electors of the City voting at a regular election. Upon order of the Council, an elected official may be paid his or her actual and necessary expenses incurred in the performance of the duties of office.

#### **Section 2-5. Financial Interest Prohibited.**

(a) For purposes of this section only, "contract" means any arrangement or agreement pursuant to which any land, material, service, or other thing of value is to be furnished to the City for a valuable consideration to be paid by the City or is to be sold or transferred by the City.

(b) For purposes of this section only, "financial interest" means ownership of securities of a corporation, or of any beneficial interest in any other entity carried on for purposes of profit, with which a contract is made, the aggregate amount of which securities or interest owned by the elected official and one or more relatives of the elected official is ten (10) percent or more of any class of securities of such corporation or ten (10) percent or greater ownership in such other entity.

(c) During the official's term of office, no elected official shall be a salaried employee of the City, nor shall the elected official have any direct or indirect financial interest in any contract with the City.

(d) Any contract entered into in violation of the prohibitions of this section shall be void.

#### **Section 2-6. State Conflicts of Interest Laws to Apply.**

In addition to the requirements of Section 2-5, the State statutes, as from time to time amended, concerning conflicts of interest of local government officials, including but not limited to those establishing a code of ethics for local government officials, and those concerning proscribed acts related to contracts and claims, shall continue to apply to the City. In case of any conflict between the requirements of said Section 2-5 and said State statutes, the more stringent requirement shall apply.

#### **Section 2-7. Vacancies.**

(a) A vacancy shall exist whenever any elected official is recalled, dies, is judicially declared incompetent, resigns, ceases to be a resident of the City, is convicted of any offense specified in Subsection (b) of Section 2-2, or has had more than three (3) unexcused absences from regular meetings during the official's term of office.

(b) If a Councilmember is absent from a regular meeting of the Council, the Councilmember shall request an excuse therefor from the Mayor. If the Mayor is absent from a regular meeting of the Council, the Mayor shall request an excuse therefor from the Council. In evaluating the request for an excuse, the Mayor or the Council, as appropriate, shall evaluate the circumstances of the absence and the reasons given therefor. If the absence is determined to be unexcused, the reasons for the determination shall be made a part of the record of the regular meeting at which the determination occurs. An elected official who has had four (4) unexcused absences during the official's term of office shall be deemed to have vacated the office on the date on which the fourth request for an excuse is denied. If no excuse is requested as required by this Subsection (b) within thirty (30) days after the date

on which the absence occurred, the absence shall be conclusively determined to be unexcused, and such determination shall be made a part of the record of the regular meeting next following the lapse of said thirty (30) day period.

(c) At a regular meeting held not more than forty-five (45) days after a vacancy occurs in the Council, the remaining members of the Council shall appoint a person to fill the vacancy, by affirmative vote of a majority of the remaining members, for the remainder of the term, except that if a regular election will occur within sixty (60) days after the vacancy occurs, the vacancy shall not be filled by appointment but shall instead be filled at that election for the remainder of the term.

(d) If any vacancy in the Council occurs because of the election of a Councilmember to the office of Mayor, the vacancy shall be filled for the remainder of the term by the Councilmember candidate who, at that election, received the highest number of votes following the Councilmember candidates who were elected to office; except that, if there was no such candidate, the vacancy shall be filled in the manner provided in Subsection (c) of this section.

(e) No appointment shall be made without posting and publishing notice of the vacancy at least fourteen (14) days prior to the appointment.

(f) No relative of a Councilmember or the Mayor may be appointed to fill a vacancy in the Council. (Amended by vote of the citizens of Dacono, November, 2004, Ord. 645)

#### **Section 2-8. Oath of Office.**

Before assuming office, every elected official shall take and file with the City Clerk an oath or affirmation to support the United States Constitution, the State Constitution, and the Charter and ordinances of the City, and to faithfully perform the duties of the office.

#### **Section 2-9. Mayor.**

(a) The Mayor shall be considered a member of the Council but shall not be entitled to vote on any matter before the Council, except in case of a tie vote.

(b) The Mayor shall preside at meetings of the Council and shall exercise such powers and perform such other duties as conferred by this Charter or by ordinances not inconsistent with this Charter.

(c) The Mayor shall be recognized as the head of the City government for all ceremonial and legal purposes and shall execute and authenticate legal instruments requiring the Mayor's signature.

#### **Section 2-10. Veto Powers of Mayor.**

(a) All ordinances and resolutions shall require the approval and signature of the Mayor.

(b) Each ordinance or resolution shall be presented to the Mayor within forty-eight (48) hours after the action of the City Council for the Mayor's signature approving the same.

(c) If the Mayor disapproves the ordinance or resolution, it shall be returned to the City Council at its next regular meeting with the Mayor's objections in writing.

(d) The City Council shall cause the Mayor's objections to be entered into the record of its proceedings and shall consider, at the same or next subsequent meeting of the Council, the question: "Shall the ordinance or resolution, notwithstanding the Mayor's objections, be passed?"

(e) If five (5) Councilmembers vote in the affirmative, such resolution shall be valid and such ordinance shall become a law, as the case may be, the same as if it had been approved by the Mayor.

(f) If the Mayor fails to return to the next subsequent meeting of the City Council any resolution or ordinance presented to the Mayor for approval, the same shall become a valid ordinance or resolution, as the case may be, in like manner as if had been approved by the Mayor.

### **Section 2-11. Mayor Pro-Tem.**

At the first meeting, regular or special, following each regular election, the Council, by at least four (4) affirmative votes, shall appoint a Councilmember as Mayor Pro-Tem for a one (1) year term. The Mayor Pro-Tem shall have the Mayor's powers and perform the Mayor's duties whenever the Mayor is not available. The Mayor Pro-Tem shall also serve as the Charter and Code liaison, tracking the status of periodic Charter, Municipal Code, personnel policy and capital improvements program reviews required by this Charter, and ensuring that the City Council meets at least once each year with each board and commission established by this Charter to discuss matters of mutual interest. (Amended by vote of the citizens of Dacono, November 2003, Ord. 623)

## **ARTICLE III**

### **Council Procedure**

#### **Section 3-1. Meetings.**

(a) The Council shall meet regularly at least twice each month. The Council shall prescribe by rules of the Council the day and hour of its regular meetings and the procedures governing meetings. The first meeting, regular or special, following each regular municipal election shall be the organizational meeting.

(b) The Council shall cause written minutes of its regular and special meetings to be taken and retained in the records of the City.

#### **Section 3-2. Special Meetings and Business at Special Meetings.**

(a) Special meetings shall be called by the City Clerk on the written request of the Mayor or of any two (2) Councilmembers. A special meeting shall be held on at least forty-eight (48) hours written notice to each elected official, served personally or left at the official's usual place of residence, except that a special meeting may be held on shorter notice if the entire Council is present or has waived notice thereof in writing. Notice of a special meeting shall be posted in at least five (5) public places, at least two (2) of which are open to the public during evening hours.

(b) No business shall be transacted at any special meeting of the Council unless it has been stated in the notice of the meeting. Except where a greater number of affirmative votes is specified in the

Charter, at least four (4) affirmative votes shall be required for the adoption of any motion, resolution, or ordinance at a special meeting.

### **Section 3-3. Quorum.**

A majority of the elected officials in office at the time shall be a quorum for the transaction of business at all Council meetings.

### **Section 3-4. Meetings to be Public.**

(a) All regular and special meetings of the Council shall be open to the public and persons shall have a reasonable opportunity to be heard under such rules as the Council may prescribe. Any meeting may be recessed by the affirmative vote of a majority of the members present and may be closed to the public pursuant to the executive session provisions of the Colorado Open Meetings Law, C.R.S. §24-6-402. (Amended by vote of the citizens of Dacono, November 2003, Ord. 624)

### **Section 3-5. Council Acts.**

The Council shall act only by ordinance, resolution, or motion. The Council may select the appropriate form for its action, except where a particular form is required by the Charter. A true copy of every ordinance and resolution as adopted shall be numbered and retained in the records of the City.

### **Section 3-6. Voting; Voting Prohibited When.**

(a) The vote by "Yes" and "No" shall be taken by roll call upon the adoption of each ordinance and resolution, and entered in the minutes of the meeting. Except as otherwise provided in this Charter, the final adoption of any ordinance shall require at least four (4) affirmative votes, and resolutions and motions shall require the affirmative vote of a majority of the members of the Council present.

(b) No elected official shall vote on any question concerning the official's own conduct.

(c) No elected official shall vote on any question on which the official has a conflict of interest, as defined in the State statutes concerning conflicts of interest of local government officials. On such a question, the official shall disclose the nature of the conflict of interest to the Council prior to abstaining from voting. If the official fails to disclose a conflict of interest, the Council shall determine, by motion, whether a conflict of interest exists. Such motion shall state the basis of the determination and shall be conclusive of the question of whether a conflict of interest exists.

(d) Except as provided in Subsections (b) and (c) of this section, each member of the Council who is present shall vote when his or her name is called. Any refusal to vote, except when an abstention is required by Subsections (b) or (c) of this section, shall constitute a dereliction of duty, and shall be recorded as an affirmative vote.

### **Section 3-7. Action by Ordinance Required.**

In addition to such acts of the Council as are required by the State Constitution or this Charter to be by ordinance, every act of the Council making an appropriation, authorizing the borrowing of money, imposing a tax, fixing rates charged by any municipal utility system, establishing any regulation for violation of which a fine or jail sentence penalty may be imposed, or placing any direct burden upon or

direct limitation on the use of private property, shall be by ordinance. However, nothing herein shall be construed to permit any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, extension of an expiring tax, or tax policy change directly causing a net tax revenue gain to the City, except with the advance approval of the registered electors of the City in the manner provided in the Article X, Section 20 of the State Constitution.

### **Section 3-8. Form of Ordinance.**

(a) Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO. Except as otherwise provided in this Article, all ordinances shall take effect five (5) days after publication following final adoption. Unless otherwise specifically provided in the ordinance, every ordinance shall be deemed to contain a severability clause whether stated therein or not.

(b) No ordinance shall contain more than one (1) subject, except an ordinance repealing one (1) or more other ordinances. However, the failure of an ordinance to contain only one (1) subject shall not affect the validity or enforceability of the ordinance.

### **Section 3-9. Procedure.**

Except for emergency ordinances, the following procedure shall be followed in adopting any ordinance:

(a) The ordinance shall be introduced by a Councilmember at a regular or special meeting of the Council.

(b) The ordinance shall be read in full or by title; except that, if the ordinance is read by title only, a general summary of the ordinance shall be read and the ordinance shall be available for review by the public during the meeting at which the ordinance is considered.

(c) After the first reading, the Council shall vote to amend, adopt, or reject the ordinance, or take such other action as it deems appropriate.

(d) If the ordinance is adopted on first reading, it shall be published in full and shall be posted in at least five (5) public places, at least two (2) of which are open to the public during evening hours. The Council shall set a day, hour, and place at which the Council shall hold a public hearing on the ordinance. Notice of said day, hour, and place shall be included in the publication.

(e) The ordinance shall be introduced by a Councilmember a second time, at a regular or special meeting of the Council held not earlier than four (4) days after the first publication. The Council shall vote to amend, finally adopt, or reject the ordinance, or take such other action as it deems appropriate. Any such action shall be taken after the public hearing on the ordinance, but may be taken at the same meeting at which the public hearing is held.

(f) Upon final adoption, the ordinance shall be published either in full or by title, as the Council may direct, except that if the ordinance is amended prior to final adoption, any amendment shall be published in full, and except that any penalty clause contained in the ordinance shall be published in full.

(g) The ordinance shall be signed by the Mayor and attested by the City Clerk, and affidavits of publication shall be retained with the ordinance in the City's records.

(h) Every ordinance published by title shall contain a notice that copies of the ordinance are available at the office of the City Clerk.

### **Section 3-10. Emergency ordinances.**

(a) An emergency ordinance necessary for the immediate preservation of public property, health, welfare, peace, or safety, shall require at least five (5) affirmative votes. The facts showing the emergency shall be specifically stated in the ordinance. The Council's determination as to the existence of an emergency shall be final and conclusive on the question.

(b) No ordinance granting, renewing, or amending any franchise, fixing rates charged by any municipal utility system, or imposing any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, extension of an expiring tax, or tax policy change directly causing a net tax revenue gain to the City, shall be adopted as an emergency ordinance.

(c) An emergency ordinance may be introduced and finally adopted at any regular or special meeting, shall require only one (1) reading, and shall not require a public hearing or publication prior to final adoption. An emergency ordinance shall take effect upon final adoption or on such later date as specified in the ordinance. Following final adoption, an emergency ordinance shall be published in full and posted in at least five (5) public places, at least two (2) of which are open to the public during evening hours.

### **Section 3-11. Codification.**

The Council shall cause ordinances of a general and permanent nature to be codified at least annually. Revisions to the codification may be adopted by reference as provided in Section 3-12. (Amended by vote of the citizens of Dacono, November 2003, Ord. 625)

### **Section 3-12. Adoption of Codes by Reference.**

The Council may adopt, by ordinance, any code by reference. The procedure for adoption of a code by reference shall be as provided in the State statutes applicable to the adoption of codes by reference, or such other procedure as the Council may provide by ordinance. Every ordinance adopting a code by reference shall contain a notice that copies of the code are available at the office of the City Clerk. Any penalty clause in such a code may be adopted only if set forth in full in the adopting ordinance and published as provided in Section 3-9.

### **Section 3-13. Public Records.**

Subject to the State statutes concerning public records, public records of the City shall be open for inspection by any person at any reasonable time.

**Section 3-14. Ordinance Review.**

(a) The Council shall review ordinances of a general and permanent nature adopted on or after the effective date of this Charter at least once every five (5) years after adoption, and at least once every five (5) years thereafter, for possible amendment or repeal.

(b) The Council shall establish a schedule for reviewing all ordinances of a general and permanent nature which were adopted prior to the effective date of this Charter.

(c) The failure to review any ordinance pursuant to this section shall not affect the validity or enforceability of the ordinance.

**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 one (1) 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.

**ARTICLE IV**

**Elections**

**Section 4-1. Colorado Municipal Election Laws Adopted.**

City elections shall be governed by the State statutes contained in the Colorado Municipal Election Code, except as otherwise provided in this Charter or by ordinances not inconsistent with this Charter. All regular and special elections shall be nonpartisan.

**Section 4-2. Regular Elections.**

A regular election shall be held on the first Tuesday in November in each odd-numbered year, and on the same day as the November state general election in each even-numbered year.

**Section 4-3. Special Elections.**

A special election shall be called by a resolution adopted at least thirty (30) days prior to the election. The resolution calling a special election shall set forth the purpose of the election. Nothing in this section shall permit the holding of any special election in a manner inconsistent with the State Constitution.

**Section 4-4. Conduct of Elections.**

(a) The City Clerk shall have charge of all activities and duties required pursuant to this Charter relating to the conduct of elections in the City. In any case where election procedure is in doubt, the City Clerk shall prescribe the procedure to be followed.

(b) The City Clerk shall provide for ballots and sample ballots, voting machines or electronic voting equipment, for determination of the winner by lot in the event of a tie vote, for canvass of returns, and for issuance of appropriate certificates.

#### **Section 4-5. Nominating Petitions.**

Each nominating petition for a candidate for Mayor or Councilmember shall be signed by at least twenty-five (25) registered electors of the City.

### **ARTICLE V**

#### **Initiative, Referendum, and Recall**

##### **Section 5-1. Initiative.**

(a) The initiative power, reserved by Article V, Section 1(9) of the State Constitution, is hereby extended to the registered electors of the City as to that City legislation which is subject to the initiative power reserved in said Constitution. Any initiated measure shall be in the form of an ordinance. The measure shall be initiated pursuant to the State statutes which establish procedures for a municipal initiative, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.

(b) An initiative petition shall be signed by registered electors of the City equal in number to at least ten (10) percent of the total number of electors of the City registered to vote at the last regular election. No signature on an initiative petition shall be valid if signed on a date prior to the date the form of the petition is approved by the City Clerk, or if signed on a date more than ninety (90) days prior to the date the signed petition is filed with the City Clerk.

##### **Section 5-2. Referendum.**

(a) The referendum power, reserved by Article V, Section 1(9) of the State Constitution, is hereby extended to the registered electors of the City as to those ordinances which are subject to the referendum power reserved in said Constitution. Such ordinances shall be referred pursuant to the State statutes which establish procedures for a municipal referendum, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter. The referendum power shall not apply to an emergency ordinance.

(b) A referendum petition shall be signed by registered electors of the City equal in number to at least ten (10) percent of the total number of electors of the City registered to vote at the last regular election.

##### **Section 5-3. Recall.**

(a) Any elected official may be recalled at any time after six (6) months in office, pursuant to the State statutes which establish procedures for the recall of municipal elective officers, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.

(b) A recall petition shall be signed by registered electors of the City. The signers shall number at least twenty-five (25) percent of the ballots cast at the last preceding election. For the purpose of this section, the "last preceding election" shall be the last preceding election at which the person sought to be recalled was elected to office, unless the person sought to be recalled was appointed to fill a vacancy, in which event it shall be the last preceding election at which the person who created the vacancy was elected to office.

(c) No signature on a recall petition shall be valid if signed on a date more than thirty (30) days prior to the date the signed petition is filed with the City Clerk.

(d) No recall election shall be held if the office held by the person sought to be recalled will be filled at a regular election scheduled to be held within ninety (90) days after submission of the recall petition.

(e) After one (1) recall petition and election, no further petition shall be filed against the same person during the term for which such person was elected or appointed, unless the signers number at least fifty (50) percent of the ballots cast at the last preceding election.

(f) Except as to requirements contained in this Charter, in the State statutes which are applicable to the recall of municipal elective officers, and in the ordinances of the City, the form, content, approval, and other petition requirements in the State statutes applicable to municipal initiatives shall apply as nearly as practicable to recall petitions.

#### **Section 5-4. Council Referendum.**

The Council shall have the power to submit to a vote of the registered electors of the City, without receipt of any petition, any proposed or adopted ordinance or any question.

#### **Section 5-5. Prohibited Action by Council.**

(a) No initiated ordinance adopted by the registered electors of the City may be substantively amended or repealed by the Council during a period of three (3) years after the date of the election on the initiated ordinance, unless the amendment or repeal is approved by a majority of the registered electors of the City voting thereon.

(b) No referred ordinance repealed by the registered electors of the City may be readopted by the Council during a period of three (3) years after the date of the election on the referred ordinance, unless the readoption is approved by a majority of the registered electors of the City voting thereon.

#### **Section 5-6. Withdrawal of Petition.**

An initiative, referendum, or recall petition may be withdrawn at any time prior to thirty (30) days preceding the day scheduled for a vote, by filing with the City Clerk a written request for withdrawal signed by all persons who are designated in the petition as representing the signers on matters affecting the petition. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

## ARTICLE VI

### Legal and Judiciary

#### Section 6-1. City Attorney.

(a) The Council shall appoint a City Attorney to serve at the pleasure of the Council. The appointment or removal of the City Attorney shall require at least four (4) affirmative votes. The City Attorney shall be at all times while serving as City Attorney an attorney at law admitted to practice in Colorado.

(b) The City Attorney shall serve as the general counsel of the City, shall advise the Council and other City officials in matters relating to their official powers and duties, and shall perform such other duties as may be designated by the Council. The Council shall determine whether the position is full time or part time.

(c) The Council shall establish compensation for the City Attorney.

(d) The Council may employ such special counsel as may be recommended by the City Attorney or the Council.

#### Section 6-2. Municipal Court.

(a) There shall be a municipal court vested with exclusive original jurisdiction over all matters arising under this Charter, the ordinances, and other enactments of the City.

(b) The municipal court existing on the effective date of this Charter shall continue as the municipal court for the City until changed as provided by this Charter.

(c) The municipal court shall be a court of record.

(d) The appointment or removal of any municipal judge shall require at least four (4) affirmative votes.

(e) Each municipal judge shall be at the time of appointment and throughout the term of office an attorney at law admitted to practice in Colorado, and shall have at least five (5) years experience in the active practice of law at the time of appointment.

(f) Each municipal judge shall be appointed for a one (1) year term.

(g) Except as otherwise provided in ordinances not inconsistent with this Charter, matters pertaining to the appointment, removal, term of office, and powers and duties of municipal judges, and all other matters relating to municipal judges and the municipal court, shall be as set forth in those State statutes which apply to municipal judges and municipal courts.

## ARTICLE VII

### Personnel and Administration

#### Section 7-1. Personnel Policies.

(a) Subject to the limitations of this Charter, the City Council shall prepare and adopt, and may amend from time to time, rules, regulations, and policies regarding personnel matters of general applicability to employees. No such rules, regulations, and policies shall be adopted or amended until after they are reviewed by the Personnel Board established pursuant to Section 11-1.

(b) All rules, regulations, and policies regarding personnel matters shall be reviewed by the City Council and the Personnel Board at least once every two (2) years for possible revisions.

(c) The Personnel Board or the City Council may at any time recommend revisions to the City's rules, regulations, and policies regarding personnel matters.

(d) The personnel rules, regulations, policies, and practices of the City shall not be influenced by race, color, religion, national origin, sex, age, disability, or political beliefs, and shall provide a reasonable degree of employment security for qualified employees.

(e) The City Council shall cause to be furnished to each employee a copy of each personnel rule, regulation, and policy of general applicability, and acknowledgement of the receipt of the same shall be furnished in writing by each employee.

(f) The Council shall annually adopt, by resolution, a pay plan for employees. Prior to adopting the pay plan, the Council shall hold a public hearing thereon. Employees and other interested persons may appear and be heard at said hearing. (Amended by vote of the citizens of Dacono, November, 2005, Ord. 664)

#### Section 7-2. Office of City Clerk.

(a) The office of City Clerk is hereby established, consisting of the City Clerk and any personnel subordinate to the City Clerk.

(b) The City Clerk shall be responsible to the Council for the proper administration of the office of City Clerk, and for performance of the following functions and duties:

(1) Attendance at meetings of the City Council and maintenance of its minutes;

(2) Maintenance of a public record of all proceedings of the Council, and authentication of the same;

(3) Custody of all papers, documents, bonds, and records pertaining to the City, except as otherwise provided by law or this Charter;

(4) Custody of the City seal and affixation of the same to documents;

(5) Administration of oaths, affirmations, and attestations;

(6) Publication and posting of all notices, proceedings, and other matters required to be published or posted by this Charter or by ordinance;

(7) Serving as the chief elections officer of the City; and

(8) Performance of such other duties as may be required by this Charter, and the ordinances and resolutions of the Council.

**Section 7-3. Office of Treasurer.**

(a) The office of the Treasurer is hereby established, consisting of the Treasurer and any personnel subordinate to the Treasurer.

(b) The Treasurer shall be responsible to the Council for the proper administration of the City treasury and for the performance of such other functions and duties as may be required by the ordinances and resolutions of the Council.

**Section 7-4. Police Department.**

(a) The Police Department is hereby established, consisting of the Police Chief and any personnel subordinate to the Police Chief.

(b) The Police Chief shall be responsible to the Council for the proper administration of the Police Department. The Chief, and each other sworn officer of the Department under the supervision of the Chief, shall be responsible for performance of the following functions and duties:

(1) Performance of such responsibilities as are conferred by the State statutes concerning peace officers; and

(2) Performance of such other duties as may be required by this Charter, and the ordinances and resolutions of the Council.

(c) The Chief and each other sworn officer of the Department shall be, at the time of appointment, certified or certifiable as peace officers in the manner provided in the State statutes concerning the certification of peace officers.

**Section 7-5. Public Works Department.**

(a) The Public Works Department is hereby established, consisting of the Public Works Superintendent and any personnel subordinate to the Public Works Superintendent.

(b) The Public Works Superintendent shall be responsible to the Council for the proper administration of the Public Works Department and shall be responsible for performance of the following functions and duties:

(1) Managing the construction, reconstruction, and maintenance of all general public improvements in the City, including but not limited to the street system, utility systems, and public facilities of the City; and

(2) Performance of such other duties as may be required by this Charter, and the ordinances and resolutions of the council.

**Section 7-6. General; Other Departments.**

(a) The City Council may establish, by ordinance, such other departments as it determines necessary for the proper administration of the City. Any such department shall consist of a Department Director and any personnel subordinate to the Department Director.

(b) The City Clerk, Treasurer, Police Chief, Public Works Superintendent, and each Department Director of any department established pursuant to Subsection (a) of this Section, shall be appointed by the Council after consideration of the recommendations of the Personnel Board. Appointment to or removal from any such position shall require at least four (4) affirmative votes, and any such removal shall be for cause only.

(c) The Department Director of any department established pursuant to Subsection (a) of this Section shall be responsible to the Council for the proper administration of the department and for the performance of such other functions and duties as may be required by this Charter, and the ordinances and resolutions of the Council.

(d) Subordinate employees of each department shall be selected by the applicable Department Director.

**Section 7-7. City Administrator.**

(a) The Council may appoint a City Administrator to serve at the pleasure of the Council, after consideration of the recommendations of the Personnel Board. The appointment or removal of the City Administrator shall require at least four (4) affirmative votes.

(b) Throughout the duration of the appointment of any City Administrator appointed by the Council:

(1) Neither the Council, nor any elected official, nor any Council committee, shall dictate the appointment of any person to or removal of any person from employment by the City Administrator except as otherwise provided in this Charter, or in any other way interfere with such employment;

(2) Except for the purpose of inquiry, the Council, each elected official, and each Council committee, shall deal with the administrative service solely through the City Administrator, and neither the Council, nor any elected official, nor any Council committee, shall give orders to any employee of the City; and

(3) Except for the purpose of inquiry, the Council, each Councilmember, and each Council committee, shall deal with the City Administrator solely through the Mayor. (Amended by vote of the citizens of Dacono, November, 2004, Ord. 644)

## **ARTICLE VIII**

### **Finance and Budget**

#### **Section 8-1. Fiscal Year.**

Unless otherwise provided by ordinance, the fiscal year of the City shall begin on the first day of January and end on the last day of December of each year.

#### **Section 8-2. Budget.**

(a) The City Council shall adopt an annual budget. Such budget shall present a complete financial plan by fund and by spending agency within each fund for the fiscal year and shall set forth the following:

(1) All proposed expenditures for administration, operations, maintenance, debt service, and capital projects to be undertaken or executed by any spending agency during the fiscal year;

(2) Anticipated revenues for the fiscal year;

(3) Estimated beginning and ending fund balances;

(4) The corresponding actual figures for the prior fiscal year and estimated figures projected through the end of the current fiscal year, including disclosures of all beginning and ending fund balances, consistent with the basis of accounting used to prepare the budget;

(5) A written budget message describing the important features of the proposed budget, including a statement of the budgetary basis of accounting used and a description of the services to be delivered during the fiscal year; and

(6) Explanatory schedules or statements classifying the expenditures by object and the revenues by source.

(b) The budget shall not provide for expenditures in excess of available revenues and beginning fund balances.

(c) The budget shall set forth, in a supplemental schedule, each of the following:

(1) The total amount to be expended during the ensuing fiscal year for payment obligations under all lease-purchase agreements involving real property;

(2) The total maximum payment liability of the City under all lease-purchase agreements involving real property over the entire terms of such agreements, including all optional renewal terms;

(3) The total amount to be expended during the ensuing fiscal year for payment obligations under all lease-purchase agreements other than those involving real property; and

(4) The total maximum payment liability of the City under all lease-purchase agreements other than those involving real property over the entire terms of such agreements, including all optional renewal terms.

### **Section 8-3. Capital Program.**

(a) At the same time as the time of adoption of the budget by the Council, the Council shall adopt a five (5) year capital program, which shall serve as a guide for the planning of capital improvements.

(b) The capital program shall include at least the following information:

(1) A general summary of its contents;

(2) A list of all capital improvements which are recommended to be undertaken, continued, or completed during the next five (5) fiscal years;

(3) Cost estimates and methods and timing of financing the improvements; and

(4) The estimated annual cost of operating and maintaining the improvements.

### **Section 8-4. Public Hearing.**

At such time and place as the Council may direct, at least one (1) public hearing shall be held on the proposed budget and the recommended capital program before adoption. Notice of each public hearing, and notice that the proposed budget is available for public inspection, shall be published at least once, seven (7) or more days before each hearing, and shall be posted in at least five (5) public places, at least two (2) of which are open to the public during evening hours.

### **Section 8-5. Council Action on Budget.**

(a) Unless another date is provided by ordinance, the Council shall adopt the budget, by resolution, on or before the date provided by law for certification of the ad valorem property tax levy. If the Council fails to adopt the budget by the required date, the amounts appropriated for the current fiscal year, together with any additional amounts necessary for payments of principal and interest on securities and other payment obligations, shall be deemed appropriated for the next fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts the budget for the next fiscal year.

(b) Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated, and shall constitute a levy of the ad valorem property tax therein provided. The Council shall cause the ad valorem property tax levy to be certified as provided by law.

(c) Except as otherwise provided in this Charter or in ordinances not inconsistent with this Charter, procedures concerning supplemental appropriations, transfers, contingencies, and other matters pertaining to the budget, shall be as set forth in the State statutes concerning the budgets of local governments.

(d) Nothing in this Article shall be construed to permit any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, extension of an

expiring tax, or tax policy change directly causing a net tax revenue gain to the City, except with the advance approval of the registered electors of the City in the manner provided in Article X, Section 20 of the State Constitution.

**Section 8-6. Payments and Obligations Prohibited.**

During the fiscal year, no City official, employee, or spending agency shall expend or contract to expend any money, or incur any liability, or enter into any contract which, by its terms, involves the expenditures of money in excess of the amounts appropriated. Any contract, verbal or written, made in violation of this section shall be void, and no moneys belonging to the City shall be paid on such contract.

**Section 8-7. Independent Audit.**

The Council shall provide for an independent annual audit of all City accounts by a certified public accountant selected by the Council, and may provide for more frequent audits as it deems necessary. The accountant selected shall have no direct personal interest in the fiscal affairs of the City, of any elected official, or of any employee of the City. Unless another date is provided by ordinance, the audit shall be completed within four (4) months after the close of the fiscal year. Copies of the audit shall be made available for public inspection.

**ARTICLE IX**

**Utilities; Franchises and Permits**

**Section 9-1. Acquisition or Improvement of Utilities.**

(a) The City shall not acquire any municipal utility system by purchase or condemnation, nor construct any new municipal utility system, unless the question of such acquisition or construction is first approved by a majority of the registered electors of the City voting thereon at an election.

(b) The City shall not expand, enlarge, or extend any municipal utility system without approval of the registered electors of the City in the manner provided in Article X, Section 20 of the State Constitution, if such expansion, enlargement, or extension would require a new tax, a tax rate increase, any multiple-fiscal year direct or indirect City debt, any other City financial obligation whatsoever without adequate present cash reserves pledged irrevocably and held for payments in all future fiscal years, or any fiscal year spending exceeding the limitations imposed by said Article X, Section 20.

**Section 9-2. Utility Rates.**

(a) The Council shall by ordinance establish rates for services provided by any municipal utility system.

(b) Utility rates shall be amended as often as is necessary to reflect the amount of any increase or decrease imposed on the City by any governmental entity involved in providing water or sewer service to the City and its customers.

### **Section 9-3. Granting of Franchises.**

(a) No franchise shall be granted or renewed for a period longer than ten (10) years.

(b) No franchise shall be granted, renewed, or amended by the Council except by ordinance. Any ordinance granting, renewing, or amending a franchise shall be subject to a timely referendum if one is filed in accordance with the procedures and requirements set forth in this Charter. Notwithstanding the provisions of Section 5-2(b) of this Charter, such a petition shall be signed by registered electors of the City equal in number to at least five (5) percent of the total number of electors of the City registered to vote at the last regular election. If such an election is ordered, the grantee of such franchise shall deposit the cost of the election with the City Clerk in an amount determined by the City Clerk.

(c) Each franchise granted pursuant to this Charter shall include a provision for a periodic review of the franchise by the Council.

(d) The Council shall establish, by ordinances not inconsistent with this Charter, the terms, fees, compensation, conditions, recordkeeping, and other matters relating to franchises.

(e) No franchise shall exempt any person from compliance with the ordinances adopted by the City for the public health, safety, and welfare, including ordinances establishing permit requirements and other requirements for the excavation of the public ways of the City.

### **Section 9-4. Existing Franchises.**

All franchise ordinances and agreements of the City in effect on the effective date of this Charter shall remain in force in accordance with their respective terms and conditions unless modified by another franchise.

### **Section 9-5. Revocable Permits or Licenses.**

Any permit or license granted for the temporary use or occupation of any street, alley, other public way, or City-owned place, shall be revocable by the City at any time and without cause, whether or not such right to revoke is expressly reserved in the permit or license.

## **ARTICLE X**

### **Municipal Taxes, Borrowing, Payment Obligations, and Spending**

#### **Section 10-1. Declaration of Intent.**

The people hereby declare their intention that the City shall at all times comply fully with the provisions of the taxpayer's bill of rights, Article X, Section 20, of the State Constitution. Every provision of this Charter shall be construed in a manner that furthers that intention.

#### **Section 10-2. Limitations on Taxes.**

No new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, or extension of an expiring tax, and no tax policy change directly causing a net tax revenue gain to the City, shall be imposed without the advance approval of the registered

electors of the City in the manner provided in the Article X, Section 20 of the State Constitution. No emergency taxes shall be permitted except for the purposes and in the manner provided in said Article X, Section 20.

**Section 10-3. Limitations on Borrowing and Payment Obligations.**

Except for refinancing City bonded debt at a lower interest rate or adding new employees to existing City pension plans, no multiple-fiscal year direct or indirect City debt, and no other City financial obligation whatsoever without adequate present cash reserves pledged irrevocably and held for payments in all future fiscal years, shall be incurred without the advance approval of the registered electors of the City in the manner provided in Article X, Section 20 of the State Constitution.

**Section 10-4. Limitations on Fiscal Year Spending.**

Fiscal year spending by the City shall not exceed the limitations imposed by Article X, Section 20 of the State Constitution without approval of the registered electors of the City in the manner provided in said Article X, Section 20.

**ARTICLE XI**

**Boards and Commissions**

**Section 11-1. Personnel Board.**

- (a) The Personnel Board is hereby established, consisting of three (3) members.
- (b) Each member of the Personnel Board shall be a registered elector of the City and shall have been a resident of the City for at least one (1) year immediately preceding the date of appointment.
- (c) The members shall be appointed, for three (3) year overlapping terms, as follows:
  - (1) One (1) member shall be appointed by the Council;
  - (2) One (1) member shall be appointed by a majority vote of the City's employees voting thereon; and
  - (3) One (1) member shall be appointed by the two members referred to in paragraphs (1) and (2) above, subject to ratification by the Council and by a majority vote of the City's employees voting thereon.
- (d) A member of the Personnel Board may be removed, for cause, as follows:
  - (1) A member appointed by the Council may be removed by the Council;
  - (2) A member appointed by the employees may be removed by a majority vote of the City's employees voting thereon; and

(3) A member appointed as provided in paragraph (3) of subsection (c) above may be removed jointly by the Council and by majority vote of the City's employees voting thereon.

(e) The cause for the removal of a member of the Personnel Board shall be furnished in writing to the member prior to the removal.

(f) No member of the Personnel Board shall be an elected official or an employee of the City, or a relative of an elected official or employee of the City.

#### **Section 11-2. Functions of Personnel Board.**

(a) The Personnel Board shall serve in an advisory capacity to the Council on personnel matters as provided in Section 7-1.

(b) The Personnel Board shall hear and act upon, in a quasi-judicial capacity, grievances submitted by City employees. The matters subject to grievance, the procedure for hearing grievances, and the remedies applicable to grievances, shall be set forth by ordinance. Findings and decisions of the Board shall be binding upon all parties to said grievance. Any aggrieved party may appeal the decision of the Board to a court of competent jurisdiction, subject to applicable laws concerning the time and manner of appeal.

#### **Section 11-3. Planning and Zoning Commission.**

(a) The Planning and Zoning Commission is hereby established, consisting of five (5) members to be appointed by the Council. The members shall be appointed for three (3) year overlapping terms.

(b) Three (3) members of the Planning and Zoning Commission shall be registered electors of the City, shall have been residents of the City for at least one (1) year immediately preceding the date of their appointment, and shall not be elected officials or employees of the City. One (1) member of the Commission shall be the Mayor, and one (1) member shall be a Councilmember.

#### **Section 11-4. Functions of Planning and Zoning Commission.**

(a) The Planning and Zoning Commission shall prepare and adopt, and may amend from time to time, the master plan for the physical development of the City. No such master plan, or any amendment thereto, shall become effective until approved by the City Council.

(b) The Planning and Zoning Commission shall hold the initial hearings relative to proposed subdivision plats, proposed rezonings, and such other matters as are established by ordinance, and shall make recommendations thereon to the Council.

(c) Except as otherwise provided by Charter or by ordinance, the Planning and Zoning Commission shall have the powers, perform the functions, and follow the procedures, as set forth in the State statutes.

#### **Section 11-5. Board of Adjustment and Appeals.**

(a) The Board of Adjustment and Appeals is hereby established, consisting of five (5) members to be appointed by the Council. The members shall be appointed for three (3) year overlapping terms.

(b) Four (4) members of the Board of Adjustment and Appeals shall be registered electors of the City, shall have been residents of the City for at least one (1) year immediately preceding the date of their appointment, and shall not be elected officials or employees of the City. One (1) member shall be an elected official.

**Section 11-6. Functions of Board of Adjustment and Appeals.**

(a) The Board of Adjustment and Appeals shall have power to hear and determine appeals from refusals of building permits, subject to such limitations and requirements as are established by ordinance.

(b) The Board shall have the power to make exceptions to the terms of the zoning regulations, in harmony with their general purpose and intent, subject to such limitations and requirements as are established by ordinance, and to authorize variances from the strict application of the zoning regulations in such situations, subject to such limitations and requirements as are established by ordinance.

(c) A party aggrieved by the findings and decisions of the Board may appeal the same to the City Council, subject to such requirements and limitations as are established by ordinance.

**Section 11-7. Police Advisory Board.**

(a) The Police Advisory Board is hereby established, consisting of five (5) members to be appointed by the Council. The members shall be appointed for three (3) year overlapping terms.

(b) The members of the Police Advisory Board shall be registered electors of the City, shall have been residents of the City for at least one (1) year immediately preceding the date of their appointment, and shall not be elected officials or employees of the City. If practicable, at least one (1) of said members shall have prior experience in law enforcement-related issues.

**Section 11-8. Functions of Police Advisory Board.**

(a) The Police Advisory Board shall make recommendations to the Council and Police Chief on law enforcement-related matters.

(b) The Police Advisory Board shall investigate and make recommendations concerning citizen complaints regarding the Police Department, subject to such requirements and limitations as are established by ordinance.

**Section 11-9. Local Licensing Authority.**

(a) The Local Licensing Authority is hereby established, consisting of five (5) members to be appointed by the Council. The members shall be appointed for three (3) year overlapping terms.

(b) The members of the Local Licensing Authority shall be registered electors of the City, shall have been residents of the City for at least one (1) year immediately preceding the date of their appointment, and shall not be elected officials or employees of the City.

#### **Section 11-10. Functions of Local Licensing Authority.**

The Local Licensing Authority shall have the power to grant, deny, suspend, or revoke licenses for the sale at retail of malt, vinous, or spirituous liquors and fermented malt beverages, subject to such requirements and limitations as are established by the State statutes concerning such licenses, and such additional requirements and limitations as are established by ordinance.

#### **Section 11-11. General; Other Boards and Commissions.**

(a) The City Council may establish, by ordinance, such other boards and commissions as it determines necessary or desirable. The ordinance establishing any board or commission shall prescribe its responsibilities.

(b) Except as otherwise required by this Charter, all board and commission members shall be appointed by the Council, and the chairperson of each board and commission shall be appointed by the Mayor. No person may be appointed to a board or commission on which a relative of that person serves.

(c) Except as otherwise provided by this Charter, the Council may remove for cause any appointee, but no such approval shall take place without a charge in writing and the opportunity for a hearing before the Council.

(d) The Council shall establish, by ordinances not inconsistent with this Charter, functions and other matters pertaining to each board and commission, including but not limited to procedures for the appointment of a temporary member when a member is disqualified by law from hearing or acting in a quasi-judicial capacity.

(e) The Council shall not make any appointment to any board or commission without posting and publishing notice of any vacancy thereon at least fourteen (14) days prior to the appointment, and without considering the recommendations of the board or commission to which the appointment applies.

(f) No person who has been or who is convicted of embezzlement, bribery, solicitation of bribery, perjury, subornation of perjury, or any offense involving fraud, shall be capable of holding a position on any board or commission.

(g) Except as otherwise permitted or required by this Charter, no elected official or employee of the City shall be appointed to any board or commission.

(h) Each board and commission shall meet at least once each year with the City Council to discuss matters of mutual interest.

(i) All meetings for the transaction of business shall be open to the public, except that a board or commission may go into executive session for the purpose of considering matters permitted by the State statutes to be considered in executive session, and for the purpose of deliberating upon evidence presented at a quasi-judicial proceeding. No formal and legally binding action shall be taken at any such executive session. (Amended by vote of the citizens of Dacono, November, 2004, Ord. 645)

**Section 11-12. Boards and Commissions – Alternate Members Permitted.**

Notwithstanding any other provision of this Article, the Council may appoint, to each board or commission other than the Personnel Board, not more than two (2) alternate members. Each such alternate member shall meet the same qualifications for appointment as any regular member. No such alternate member shall have any voting powers except when serving in the stead of a regular member when such regular member is absent, or during the period of vacancy in a position held by a regular member. (Amended by vote of the citizens of Dacono, November 1999, Ord. 529)

**ARTICLE XII**

**Retail Projects**

**Section 12-1. Retail Projects - Authorization for Pledge of Sales Tax.**

(a) Nothing in this Charter shall limit the City from pledging to the owner of a retail project the sales tax revenues which are specifically attributable to retail sales made by a retailer located within that project. Under no circumstance shall any pledge of any other tax revenues be made to any such owner by the City. No such pledge made after the adoption of this Charter shall be made except as provided in Article X, Section 20 of the State Constitution.

(b) The pledge may be made for, but is not limited to, the following public purposes: the acquisition, construction and maintenance of public improvements of any kind or nature, including both on-site and off-site improvements; any costs or expenses authorized for a retail maintenance district by or pursuant to this Charter; tenant incentives and tenant improvements which are necessary for a tenant to locate in the retail project; project incentives to the owner of the project which are necessary for the location of the retail project within the City; maintenance of common area improvements within a retail project; and the refurbishment of the retail project, including both public and private improvements.

**Section 12-2. Retail Maintenance Districts.**

(a) The Council may by ordinance create retail maintenance districts for the continuing care, operation, security, repair, maintenance, and replacement of all of the public areas and improvements and of all of the common area improvements within the district, in order to promote and maintain the continued vitality of a commercial area within the City.

(b) As used in this section only, "improvements" means all public improvements including, but not limited to, streets, sidewalks, curbs, gutters, street lights, drainage facilities, landscaping, decorative structures, signage, traffic devices, off-street parking, utilities, and all pertinent structures and improvements, and shall mean all common area private improvements within the district, including, but not limited to, open and enclosed pedestrian malls, off-street parking, off-street loading, directional signage, access roads, driveways, retaining walls, exterior boundary walls and fences, water, sanitary, storm sewer, gas, electric, telephone and other utility lines and systems and facilities, landscaped areas, courts, sidewalks, pylon and directory equipment, and all other exterior areas for the joint use and benefit of the occupants of the retail project.

(c) The district shall have a governing board of five (5) members, three (3) of whom shall be owners of real property within the district or representatives of owners of such property or officers of corporations which are owners of such property, and two (2) of whom shall be registered electors of the City or employees or elected officials of the City. At least three (3) affirmative votes shall be required for any action by the board.

(d) The Council shall, by ordinance not inconsistent with this section, prescribe: the method and manner of petitioning for creation of the district; the type of hearing and the notice required; the terms of the board members and replacement of board members; the method of assessing part or all of the cost of acquiring, constructing, installing and maintaining improvements against the property within the district; the right to protest assessments and the manner thereof; the powers of the district; and all other things in relation to the district which are necessary to carry out the provisions of this section, except as prohibited or limited by this Charter.

(e) Under no circumstances shall any bond, note, warrant, certificate, contract, or other financial obligation of a retail maintenance district be held to be an indebtedness, obligation or liability of the City. Each such bond, note, warrant, certificate, contract, or financial obligation of such a district shall contain a statement to that effect.

(f) Under no circumstances shall any retail maintenance district have any power to levy or impose any tax without approval of the registered electors in the manner required by Article X, Section 20 of the State Constitution.

## **ARTICLE XIII**

### **Miscellaneous Provisions**

#### **Section 13-1. Interpretation.**

(a) Except as otherwise specifically provided in or indicated by the context, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made herein.

(b) Except as otherwise specifically provided in or indicated by the context, the singular number shall include the plural, the plural shall include the singular, and the word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as individuals.

#### **Section 13-2. Severability of Charter Provisions.**

If any part of this Charter or the application thereof to any person or circumstance is found to be invalid, such invalidity shall not affect the validity of any remaining part of this Charter, and to this end this Charter is declared to be severable.

### **Section 13-3. Sale of Real Property.**

Fee ownership in real property of the City shall be transferred only by ordinance. In addition, fee ownership in any land owned or acquired by the City and used by the City for park purposes shall not be conveyed except upon the approval of the registered electors of the City voting thereon at an election.

### **Section 13-4. Bonding.**

Before permitting any elected official or employee to perform any function or duty involving the handling of City funds, the City shall obtain a fidelity bond or insurance coverage, in sufficient amount to be fixed by the Council.

### **Section 13-5. Bequests, Gifts, and Donations.**

Except as otherwise provided in this Charter, the Council, on behalf of the City, may receive bequests, gifts, and donations of all kinds of property with power to manage, sell, lease, or otherwise dispose or provide for the disposition of the same.

### **Section 13-6. Saturdays, Sundays, and Holidays.**

Whenever the date fixed by this Charter or by ordinance for the doing or completion of any act or the happening of any event falls on a Saturday, Sunday, or legal holiday, such act shall be done or completed or the event shall occur on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

### **Section 13-7. Penalty for Violation of Charter.**

Any willful violation of a provision of this Charter shall be deemed a misdemeanor and may be prosecuted in the Municipal Court. Any person convicted of such a violation may be punished by imprisonment for a term not to exceed the maximum term of imprisonment that the Municipal Court is authorized to impose, by a fine in an amount not to exceed the maximum fine that the Municipal Court is authorized to impose, or by both such fine and imprisonment.

### **Section 13-8. Competitive Bidding.**

The Council shall establish, by ordinance, procedures requiring competitive bidding for contracts for the procurement of services, equipment, and supplies. Any such ordinance may provide exclusions from the competitive bidding requirements for contracts below an amount specified in the ordinance, for the types of contracts specified in the ordinance, and for the types of services, equipment, or supplies specified in the ordinance.

## **ARTICLE XIV**

### **Definitions**

#### **Section 14-1. Definitions.**

As used in this Charter, the following terms shall have the following meanings, except where the context clearly indicates otherwise:

(a) "Board or commission" or "board and commission" means the boards and commissions established by or pursuant to Article XI.

(b) "Candidate" means a person seeking nomination, appointment, or election as an elected official.

(c) "Council" or "City Council" means the body constituting the City Council of the City.

(d) "Councilmember" means each member of the City Council except the Mayor.

(e) "Elected official" means the Mayor and each Councilmember.

(f) "Employee" means the City Administrator, the City Clerk, the Treasurer, the Police Chief, the Public Works Superintendent, and each Department Director of each department established pursuant to Section 7-6, and also means each compensated person in municipal service who is designated as an employee in the personnel rules, regulations, or policies of the City.

(g) "Mayor" means the Mayor of the City.

(h) "Newspaper" means a newspaper of general circulation in the City which meets the requirements for a legal newspaper as established in the State statutes.

(i) "Overlapping terms" means terms the expiration of which are staggered, as nearly as practicable, in such a manner that no two terms expire within twelve months of one another.

(j) "Registered elector" means an elector who has registered to vote pursuant to the State statutes.

(k) "Regular election" means an election held pursuant to Section 4-2.

(l) "Relative" means one's parents, siblings, spouse, and children, and the spouse of one's parents, siblings, and children.

(m) "Special election" means an election held at a time other than a regular election pursuant to Section 4-3.

(n) "State Constitution" means the Constitution of the State of Colorado, as from time to time amended.

(o) "State statutes" means the statutes of the State of Colorado, as from time to time amended.

(p) "United States Constitution" means the Constitution of the United States of America, as from time to time amended.

## **ARTICLE XV**

### **Transitional Provisions**

#### **Section 15-1. Effective Date of Charter.**

This Charter shall become effective immediately upon filing and recording with the Secretary of State of the State of Colorado following approval of the registered electors of the City.

#### **Section 15-2. Prior City Legislation.**

All ordinances, resolutions, rules, and regulations of the City which are not inconsistent with this Charter, and which are in force and effect on the effective date of this Charter, shall continue in full force and effect until repealed or amended. Any provision of any ordinance, resolution, rule, or regulation which is inconsistent with this Charter is hereby repealed.

#### **Section 15-3. Transition of Elected Officials' Terms.**

(a) Notwithstanding any other provision of this Charter, each elected official elected at the April, 1994 regular election of the City shall serve only until the first regular election to be held under Section 4-2 in November, 1994. At said November, 1994 election, elected officials shall be elected for terms as follows:

(1) The Mayor and the two (2) Councilmembers elected with the highest and second highest number of votes shall be elected for three (3) year terms.

(2) The two (2) Councilmembers elected with the third highest and fourth highest number of votes shall be elected for two (2) year terms.

(3) The two (2) Councilmembers elected with the fifth highest and sixth highest number of votes shall be elected for one (1) year terms.

(b) Notwithstanding any other provision of this Charter, the term limitations of Section 2-2(c) shall become applicable to each elected official at the commencement of the official's first full three (3) year term after the effective date of this Charter.

#### **Section 15-4. Continuation of Personnel.**

Each employee of the City serving on the effective date of this Charter may continue in the office or employment which was held prior to the effective date of this Charter until removal in the manner provided in this Charter, or in the manner provided by law, as applicable.

#### **Section 15-5. Transition of Boards and Commissions.**

Notwithstanding any other provision of this Charter, the term of office of all members of City boards and commissions serving prior to the effective date of this Charter shall terminate on the effective date of this Charter. Nothing herein shall preclude the reappointment of any such members.

**Section 15-6. Saving Clause.**

Neither the adoption of this Charter nor the amendment or repeal of any ordinance, resolution, rule, or regulation, or portion thereof, inconsistent with this Charter, shall be construed to destroy any property right, contract right, or right of action of any nature or kind, civil or criminal, vested in or against the City by virtue of any such ordinance, resolution, rule, or regulation, or portion thereof, or any other provision of law theretofore existing or otherwise accruing to the City. All such rights shall vest in and inure to the City or to any persons asserting any such claims against the City as fully and as completely as though this Charter had not been adopted, and as though there had been no amendment or repeal of any ordinance, resolution, rule, regulation, or portion thereof. Such rights shall include but not be limited to:

- (a) Any contractual relationships between the City and any employee by virtue of any retirement and pension plans in effect on the effective date of this Charter; and
- (b) Any franchise ordinances and agreements of the City in effect on the effective date of this Charter.

**CITY OF DACONO  
HOME RULE CHARTER COMMISSION  
CERTIFICATE OF ADOPTION**

We, the undersigned, representing the present members of the City of Dacono Charter Commission, duly elected by the citizens of Dacono, at an election held on November 2, 1993, to frame a proposed Home Rule Charter for the City, do hereby certify that the foregoing is the proposed Charter as finally approved and adopted by the members of the Commission on the 9th day of February, 1994, for submission to the City Council and to the registered electors of the City.

Executed in triplicate at Dacono, Colorado, this 9th day of February, 1994.

/s/ Mary R. Gavin, Chairperson

/s/ Wayne Carr

/s/ Connie J. Schappaugh

/s/ Ernie Fields

/s/ Robert W. Schoenrad

/s/ James Meisinger

/s/ Linda Selkurt

/s/ David H. Osborne

/s/ Richard W. Steele

Counsel to the Commission:

/s/ Tami A. Tanoue  
Griffiths & Tanoue, P.C.  
By: Tami A. Tanoue

**CITY OF DACONO  
CERTIFICATE OF ELECTOR APPROVAL**

I hereby certify that the foregoing is the Home Rule Charter as approved by the registered electors of the City of Dacono at an election held on April 5, 1994.

CITY OF DACONO  
HOME RULE CHARTER COMMISSION

By: /s/ Ernie Fields, Co-Chairperson