

## CHAPTER 2

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## ARTICLE 1

### Mayor and City Council

#### Sec. 2-1. City council – Compensation.

The council members shall be paid a monthly salary of fifty dollars (\$50.00) each. (Prior code 2.04.020; Ord. 250 §2, 1981)

#### Sec. 2-2. Council member's duty to attend meetings.

Council members and the mayor or mayor pro tem shall faithfully attend council meetings, the failure to do so without justification shall be considered good cause for a finding by the council of neglect of duty and violation of public trust. (Prior code 2.04.070; Ord. 337 §1, 1987; Ord. 374 §1, 1990)

#### Sec. 2-3. Failure to attend paid event.

If any city employee or any member of the city council, including the mayor, fails to attend any seminar, conference, workshop or training session for which the city has paid the cost of registration, the amount of regular compensation otherwise payable to the employee or member shall be reduced by the cost of registration so paid. If the cost of the registration so paid by the city exceeds the amount of such regular compensation, the employee's or member's regular compensation shall be reduced each month until the cost of the registration so paid by the city has been completely defrayed. As used in this section, *cost of registration* includes all fees and costs paid by the city in connection with attendance at a seminar, conference, workshop or training session, including but not limited to tuition and lodging. (Ord. 358 §1, 1989)

**Editor's note:** Former Sections 2-1, 2-2, 2-3, 2-5, 2-6, 2-7 and 2-8 were repealed by the Charter. The remaining Sections 2-4, 2-9 and 2-10 were renumbered to 2-1, 2-2 and 2-3, respectively.

#### Sec. 2-4. Roles of elected officials.

- (a) Definitions. As used in this section:

*Elected official* means the Mayor and each Councilmember of the City.

*Quasi-judicial matter* means any matter in which a person's individual rights are decided by the application of the pertinent law to the facts presented at a hearing before the city council, including but not limited to:

- a. An action affecting an individual property, such as a rezoning, subdivision, site development plan, planned unit development or special use permit; or
- b. An action to approve, suspend or revoke any City license or permit.

- (b) Mayor. The Mayor shall:

(1) Serve as the head of the City government for ceremonial purposes of the City (such as solemn occasions, festivities and ceremonies), and for legal purposes (such as service of process in connection with court actions under Rule 4(e)(6) of the Colorado Rules of Civil Procedure);

(2) Preside over meetings of the city council;

(3) Determine whether a Councilmember should be excused for an absence from a meeting of the city council;

(4) Vote in case of a tie;

(5) Exercise the veto power over ordinances and resolutions;

(6) Sign ordinances and resolutions;

(7) Sign other legal instruments as authorized by the Charter, ordinance, resolution or motion;

(8) Serve as the liaison between each Councilmember and each council committee and the City Administrator;

(9) Serve as a member (but not as the chairperson) of the Planning Commission;

(10) Appoint the chairperson of each board and commission of the City; and

(11) Exercise such other responsibilities as are specifically provided for the Mayor by ordinance, resolution or motion.

(c) Councilmembers. Councilmembers shall:

(1) Exercise their responsibilities under the Charter, ordinances and resolutions of the City collectively rather than individually, except as otherwise specifically permitted by the Charter, or by ordinance, resolution or motion.

(2) Refrain from dealing with the City Administrator except through the Mayor.

(d) Requirements for all elected officials. As individual elected officials, the Mayor and each Councilmember shall:

(1) Deal with the city's administrative staff solely through the City Administrator (and additionally, as to each Councilmember, contact with the City Administrator shall be through the Mayor as prescribed in the Charter);

(2) Refrain from giving orders to any employee of the City;

(3) Refrain from dictating the appointment or removal of any person from City employment, refrain from interfering with or influencing the appointment of any City employee and refrain from otherwise interfering with any City employee;

(4) Refrain from making any promises or commitments that bind or appear to bind the City, threats involving the use of City powers or any assurances concerning pending or future action by the City;

(5) Refrain from making contact with or dealing with any person seeking any permit or approval from, or other action by, the City, and refrain from communicating with any such person except for the sole purpose of referring such person to the appropriate administrative staff member;

(6) With regard to any pending quasi-judicial matter:

a. Refrain from initiating contact with any person whose interests may be affected by the decision in such matter;

b. Request that any person who initiates contact with the elected official on such a matter voice any concerns, opinions or desires only at a hearing called for the purpose of hearing such matter; and

c. Make a decision concerning such matter solely on the basis of the evidence and testimony given at the hearing on the matter;

(7) Refrain from revealing any confidences learned in executive session or otherwise gained by virtue of the elected official's position with the City;

(8) Refrain from participating in any matter in which the elected official has a conflict of interest and, in such a circumstance, refrain from influencing or attempting to influence any other elected official;

(9) Refrain from using for personal or private purposes any information which is not generally known to the public and which is gained by virtue of the elected official's position with the City, and refrain from otherwise acting to benefit one's own or another person's personal or private interests by virtue of the elected official's position with the City; and

(10) Refrain from acting in any City matter in a malicious, vengeful or retaliatory manner, or in a manner influenced by other improper motivations.

(e) Other. Nothing in this section is intended to preclude or prohibit:

(1) Any citizen from exercising his or her right to make contact with any elected official;

(2) Any elected official from participating in any city council committee;

(3) Any elected official from attending the meetings of any other governmental entity and, if authorized by the city council, representing the concerns and viewpoints of the City;

(4) Any elected official from participating in other organizations as approved by the city council, and representing the city's interests thereon, but such official shall keep the city council apprised of the activities of such organizations and shall follow the general policy directions established by the city council in representing the city's interests;

(5) Any elected official from exercising his or her right to express his or her own individual opinion or viewpoint on any matter; or

(6) Any elected official from making contact with City employees for the purpose of inquiry, or in circumstances when any other resident of the City who is not an elected official would properly make contact with a City employee for the purpose of receiving City services. (Ord. 576 §1, 2001)

**Secs. 2-5—2-24. Reserved.**

## **ARTICLE 2**

### **Officers**

#### **Sec. 2-25. Definitions.**

As used in this Article:

*Officer* means the municipal judge, the city administrator, the city attorney, the police chief, the city clerk, the city treasurer and such other persons designated as officers of the city by the state statutes or by the ordinances of the city. (Prior code 2.08.010; Ord. 349 §1, 1988)

#### **Sec. 2-26. Appointment or removal.**

The appointment or removal of any officer of the city shall be by a vote of a majority of the entire city council. (Prior code 2.08.010; Ord. 349 §1, 1988)

#### **Sec. 2-27. Term.**

Except as otherwise specifically required by the state statutes, each officer of the city shall serve at the pleasure of the city council. (Prior code 2.08.020; Ord. 349 §1, 1988)

#### **Sec. 2-28. Duties.**

Each officer of the city shall have the powers and shall perform the duties as provided for in the state statutes or as provided by ordinance, resolution or motion of the city council. (Prior code 2.08.030; Ord. 349 §1, 1988)

#### **Sec. 2-29. Compensation.**

The compensation of each officer of the city shall be established by resolution of the city council. (Prior code 2.08.040; Ord. 349 §1, 1988)

**Secs. 2-30—2-51. Reserved.**

## ARTICLE 3

### City Administrator

#### Sec. 2-52. Term.

The city administrator shall be appointed for an indefinite term, shall serve at the pleasure of the city council, and may be removed by a vote of a majority of the entire city council. (Ord. 342 §3, 1988)

#### Sec. 2-53. Powers and duties.

The city administrator shall be the chief administrative officer of the city and shall be responsible to the city council for the administration of the matters placed in the charge of the city administrator by the city council, including the following:

- (1) To supervise the administration of the affairs of the city;
- (2) To see that the ordinances of the city and the applicable laws of the state are enforced;
- (3) To make recommendations to the city council concerning the affairs of the city;
- (4) To keep the city council advised of the financial condition and future needs of the city;
- (5) To prepare and submit to the city council the annual budget estimate;
- (6) To prepare and submit to the city council such reports as the city council requires; and
- (7) To perform such other duties as required by ordinance, resolution, or motion of the city council.
- (8) To serve as a conduit for transmission of all police matters to the city council and for transmittal of all city council directives to the police department. (Ord. 342 §4, 1988; Ord. 671 §2, 2006)

#### Sec. 2-54. Compensation.

The compensation of the city administrator shall be established by resolution of the city council. (Ord. 342 §5, 1988)

#### Secs. 2-55—2-71. Reserved.

## ARTICLE 4

### Police Department\*

\* **Editor's note:** It is the intent of the city council in adopting Ordinance 671, 2006, to transfer the administrative functions of the police commissioner to the city administrator. Following adoption of Ordinance 671, 2006, any and all other references to the police commissioner in this code shall be interpreted such that the city administrator shall fulfill any duties of the police commissioner. (Ord. 671 §4, 2006)

**Sec. 2-72. Rules and regulations.**

The police department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted in writing by majority vote of the full City Council, after preparation by the Chief of Police, or as designated by City Council policy. The rules and regulations shall be made available in written form to all police officers in the City's employ, and all police officers of the City shall be instructed in their meaning. (Prior code 2.12.030; Ord. 256, §1(a), 1981)

**Sec. 2-73. Chief – Powers and duties.**

It shall be the duty of the Chief of Police to do the following:

(1) The Chief of Police shall see that the ordinances of the City are duly enforced and the rules and regulations of the Police Department obeyed, and perform such duties as may be required by the City Council;

(2) The Chief of Police shall direct the operations of the Police Department, subject to the rules and regulations thereof;

(3) The Chief of Police shall apprehend any person violating any of the City ordinances and take such violator before the Municipal Court for trial;

(4) The Chief of Police shall take charge of the detention facility, all prisoners confined therein and all those who are sentenced to labor on the streets or public works of the City, and see that orders and sentences with reference to prisoners are fully executed and complied with;

(5) The Chief of Police shall render such accounts of the Police Department, his or her duties and receipts as may required by the City Council, and keep the public records of his or her office open to inspection by the City Council at any reasonable time;

(6) Before entering upon the duties of office, the Chief of Police shall take and subscribe to a verified oath that he or she will support the Constitution and laws of the State, Constitution of the United States and ordinances of the City, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter;

(7) The Chief of Police shall communicate all police matters to the City Administrator, who shall serve as the conduit for such matters to the City Council. (Prior code 2.12.040; Ord. 374 §1, 1990; Ord. 671 §3, 2006)

**Sec. 2-74. Reserved.**

**Sec. 2-75. Police Advisory Board.**

(a) The Police Advisory Board shall be responsible for:

(1) Reviewing, referring for investigation and making recommendations regarding complaints and questions concerning the Police Department, its operations and personnel.

(2) Keeping in strict confidence all reports, testimony or other evidence received or reviewed by the Police Advisory Board to protect the privacy and reputation of all parties concerned with the investigations.

(3) Instilling confidence in officers of the Police Department and the public that: all investigations will be thorough, timely and fair; the rights of all accused officers will be protected; and no false reports will be tolerated.

(b) All complaints made by the public relative to the Police Department shall be handled by the Police Advisory Board according to the following procedures:

(1) The complainant shall prepare in writing a description of the complaint, signed and dated, with reasonable detail of names, dates, times and places, and other facts relevant to the complainant.

(2) The complaint shall be mailed or delivered to the Police Advisory Board, c/o the City Clerk.

(3) The City Clerk shall, as soon as possible, number, record and transmit the complaint to the Police Advisory Board. The Chief of Police shall be given a copy of the complaint and shall provide the Police Advisory Board with such assistance as requested by the Police Advisory Board.

(4) The Police Advisory Board shall be called into session promptly to review the complaint and refer the same for investigation either by the Police Department or by an outside agency. The Police Advisory Board shall notify the complainant that it has received his or her complaint and advise that the complaint will be investigated pursuant to this Section. All charges believed by the Police Advisory Board to be of a criminal nature shall be referred to the District Attorney for investigation.

(5) If it is determined that the investigation should be handled by the Police Department, the complaint shall be forwarded to the Chief of Police and investigated according to the Department's policies and procedures. Upon completion of the investigation, the Police Department shall transmit its findings to the Police Advisory Board for review. If the Board is not satisfied with the manner in which the investigation was conducted by the Police Department or if additional information is desired, the Police Advisory Board may either return the complaint to the Chief of Police for further investigation or refer the complaint to an outside agency for investigation.

(6) If it is determined the investigation should be conducted by an outside agency, the City Administrator or the Administrator's designee shall facilitate transmission of the complaint to the outside agency and shall ensure that the outside agency has access to any City employee the outside agency requests to interview. Upon completion of its investigation, the outside agency shall forward its findings to the Police Advisory Board for review. If the Police Advisory Board is not satisfied with the manner in which the investigation was conducted or if additional information is deemed necessary, the Police Advisory Board may return the complaint to the outside agency for further investigation.

(7) In all cases where a complaint is filed concerning any police officer, including the Chief of Police, the officer shall be given written notice of the charges against him or her and an explanation of how the complaint will be investigated. The written notice to the officer shall also contain an explanation of the possible penalties that could accrue to the officer if the charges in the complaint are sustained.

(8) Upon completion of the investigation to the satisfaction of the Police Advisory Board, the Police Advisory Board shall be called into session to review the results and determine whether each allegation shall be classified as "Sustained" or "Not Sustained," and if "Sustained," the Police Advisory Board shall recommend one (1) of the following: "Verbal Reprimand," "Written Reprimand," "Suspension Without Pay," "Demotion" or "Termination." The Police Advisory Board's written findings and recommendation shall be provided to the Chief of Police, who shall consider the same and take such action as he or she deems appropriate within fifteen (15) days. If the Chief of Police was the subject of the complaint, the Police Advisory Board's written findings and recommendation shall be provided to the City Administrator, who shall consider the same and within fifteen (15) days recommend to the City Council such action as he or she deems appropriate. Any employment action taken as a result of a complaint reviewed and investigated pursuant to this Section shall conform with all requirements of the City's personnel policies, and neither the Chief of Police nor the City Council, as the case may be, shall be bound by any recommendation made by the Police Advisory Board.

(9) After the Police Advisory Board has forwarded its recommendation to the Chief of Police or City Administrator, as the case may be, the Police Advisory Board shall notify the complainant that an investigation of his or her complaint was conducted and reviewed by the Police Advisory Board pursuant to this Section. The complainant shall not be advised of the outcome of the investigation, any recommendations made by the Police Advisory Board or any disciplinary action taken.

(c) All findings and recommendations of the Police Advisory Board must be approved by a majority of the full membership of the Police Advisory Board.

(d) A quorum must be present to conduct any business of the Police Advisory Board. A quorum shall be constituted by three (3) members of the Police Advisory Board.

(e) Any member of the Police Advisory Board shall be removed from the Police Advisory Board by the City Council for: failure to attend three (3) consecutive sessions of the Police Advisory Board; or violation of the confidentiality provisions contained in this Section. (Prior code 2.12.060; Ord. 256 §1(b), 1981; Ord. 260 §1, 1982; Ord. 274 §1, 1983; Ord. 303 §1, 1985; Ord. 374 §1, 1990; Amended by Charter; Ord. 731 §2, 2009)

**Sec. 2-76. Officers – Duties.**

(a) All duly empowered members of the Police Department shall perform all duties required under the law, including the laws of the State and the City ordinances, including Section 31-15-401, C.R.S.

(b) Police officers shall also obey the Police Department rules and regulations as promulgated by the Chief of Police and the City Council.

(c) In addition to the provision of Subsections (a) and (b) of this Section, police officers shall be empowered to, and shall, do the following:

(1) Perform all duties required of police officers;

(2) Suppress all riots, disturbances and breaches of the peace, apprehend all disorderly persons in the City, and pursue and arrest any person fleeing from justice in any part of the State;

(3) Be the enforcement officers of the City and see that the provisions of City ordinances and the laws of the State are complied with. They shall arrest without process all persons engaged in the violation in their presence of any provision of City ordinances or the laws of the State. Upon such arrest, they shall forthwith convey the offenders before the proper officer to be dealt with according to law; provided that they may incarcerate any person whom they arrest at a late and unusual hour of the night until the following morning; and provided further that, in the special cases relating to traffic offenses, they may release an arrested person upon his or her written promise to appear in court;

(4) Execute and return all writs and process to them directed by the municipal judge in any case arising under a city ordinance, and may serve the writs in any part of the county in which the city is situated;

(5) Observe the condition of the streets, sidewalks and alleys of the city, and of any obstruction, nuisance or impediment therein, and take necessary measures to remove or abate the same;

(6) Before entering upon the duties of his office, shall take and subscribe a verified oath that he or she will support the Constitution and laws of the state of Colorado, the Constitution of the United States, and the ordinances of the city, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter. (Prior code 2.12.070)

**Sec. 2-77. Extraterritorial duty.**

The chief of police may, in his discretion, upon request by a chief officer of another police department or sheriff's office, assign officers of the city, together with such equipment as he or she deems prudent or necessary, to perform temporary duty in the requesting jurisdiction. (Prior code 2.12.080)

**Sec. 2-78. Code enforcement officer – Responsibilities.**

(a) There is created the position of code enforcement officer.

(b) The code enforcement officer shall have the responsibility to enforce, under the supervision of the chief of police, the following provisions of this code:

- (1) Chapter 6, Article 1, Business Licenses.
- (2) Chapter 7, Article 1, Trash, Rubbish and Waste Materials.
- (3) Chapter 7, Article 2, Weeds and Brush.
- (4) Chapter 7, Article 4, Animals.
- (5) Chapter 8, Article 2, Abandoned and Junked Vehicles.

(c) In addition to the responsibilities set forth in subsection (b) of this section, the code enforcement officer shall perform such other duties as required by the chief of police. In no event shall any such duties include any activities related to law enforcement except as specifically authorized by this section.

(d) Nothing in this section shall deprive any police officer of the power to enforce any of the provisions of this code listed in subsection (b) of this section.

(e) The code enforcement officer shall not have any arrest power and shall not be authorized to carry any firearm.

(f) Solely for the purpose of the issuance of a summons and complaint or a penalty assessment notice for offenses within the scope of the code enforcement officer's enforcement responsibilities pursuant to subsection (b) of this section, and for no other purpose, the code enforcement officer shall be deemed to be a "peace officer" within the meaning of the Colorado Municipal Court Rules of Procedure. (Ord. 491 §1, 1997)

**Secs. 2-79—2-89. Reserved.**

## **ARTICLE 5**

### **Reserve Police Officers**

#### **Sec. 2-90. Created – Membership.**

There is created a reserve officer unit. The members of such reserve officers' unit shall be citizens of the state and of good moral character, and the unit shall consist of a number of persons who are citizens of the city from time to time designated by the chief of police or city council. The members of such unit shall be appointed by the chief of police or upon the recommendation of the city council. Each appointment shall be conditional on the appointee completing the training required by the city and regularly participating in the training program as determined by the police department, and obeying all lawful orders. Each reserve officer shall be provided with appropriate identification as determined by the chief of police. It shall be improper and cause for dismissal for any reserve officer to wear or display any such identification as a reserve officer when he or she is not actively performing the duties for which he or she was appointed. (Prior code 2.16.010)

#### **Sec. 2-91. Administration.**

All reserve officers shall be under the direction of a reserve captain, a reserve lieutenant and a reserve sergeant, in that order. These officers, in turn, shall be directly responsible to the chief of police, the city council and, in case of the unavailability of a quorum of the city council, the mayor. (Prior code 2.16.020)

#### **Sec. 2-92. Compensation.**

Each member of the reserve unit shall be designated a reserve officer and shall serve without pay. Reserve officers shall not be eligible to participate in the police pension fund. Each officer, at the city's expense, shall be covered by workmen's compensation and by false arrest insurance insuring both the city and the officer. (Prior code 2.16.030)

#### **Sec. 2-93. Call to duty.**

In case of emergency, the mayor, city council or chief of police is authorized to call into duty any or all of the reserve officers unit. When called into duty, such officers shall be under the direction of the

mayor, city council or chief of police and other officers of the police department, as provided in the case of members of the police department, and shall be subject to all rules and regulations concerning such unit. (Prior code 2.16.040)

**Sec. 2-94. Oath.**

Before becoming a member of the reserve officers unit, each prospective officer shall make application and meet the then current qualifications and requirements established by the city, shall take an oath to support the Constitutions of the United States and the state, and the ordinances of the city, and to faithfully perform the duties of reserve officer. (Prior code 2.16.050; Ord. 256 §1(c), 1981)

**Sec. 2-95. Resignation – Removal.**

Any reserve officer may resign upon giving the chief of police forty-eight (48) hours' notice, in writing, of his or her intention to do so. The chief of police may remove any officer at any time. (Prior code 2.16.060; Ord. 374 §1, 1990)

**Sec. 2-96. Powers and duties.**

The duties of the reserve officer unit shall commence when called into duty as provided by Section 2-93 to suppress all riots, disturbances and breaches of the peace; to pursue and arrest any person fleeing from justice; to apprehend any and all persons in the act of committing any offense against the laws of the state or ordinances of the city and to forthwith bring such persons before the Municipal Court or other competent authority; and to diligently and faithfully enforce all laws, ordinances and regulations for the preservation of good order and public welfare as the City Council may order. (Prior code 2.16.070; Ord. 256 §1(d), 1981; Ord. 374 §1, 1990)

**Secs. 2-97—2-99. Reserved.**

**ARTICLE 6**

**Employee Grievances**

**Sec. 2-100. Applicability.**

This Article shall apply to all exempt and nonexempt employees of the City. (Ord. 708 §1, 2008)

**Sec. 2-101. Matters subject to grievance.**

(a) The only matters for which a grievance may be filed are a suspension without pay, a disciplinary demotion or a disciplinary termination. All grievances shall be considered appeals of such actions and shall be subject to the appeal procedures set forth herein.

(b) The Department Director responsible for taking a disciplinary action that includes a suspension without pay, a disciplinary demotion or a disciplinary termination shall provide the employee with a written notice of the proposed disciplinary action. The notice shall state the reasons for which the disciplinary action is proposed and shall provide the employee an opportunity to present any grounds why the discipline should not be imposed. The Department Director, or in the case of a proposed discharge, then the City Administrator, shall render a decision within three (3) working days following

the date of the written notice to the employee. The employee may appeal the decision as provided in Section 2-102. If no appeal is filed, the decision of the Department Director or City Administrator is final and shall be considered to be the final decision of the City as of the decision date.

(c) The discharge of employees specified in Subsection 7-6(b) of the City Charter shall be Subject to the provisions of Section 7-6 of the City Charter. Any motion by City Council for the discharge of such an employee shall not reveal the cause or causes for the discharge, but, if the motion is adopted, the City Council shall direct the Mayor to prepare a written notice of discharge specifying the cause or causes and to provide the employee with a copy of the notice. Such employee may file a grievance to appeal the discharge within five (5) working days after the date of the written notice of discharge pursuant to the procedures set forth in Subsection 2-102(b). (Ord. 708 §1, 2008)

**Sec. 2-102. Initiating appeal.**

(a) An employee aggrieved by a decision rendered pursuant to Subsection 2-101(a) may file an appeal with the Personnel Board within five (5) working days of the date of the decision.

(b) The appeal shall be initiated by filing a written request for a hearing as follows:

(1) The written appeal request shall include the date of the request, the name of the employee, the general nature of the appeal and the names of any persons who might have pertinent information.

(2) The request shall be addressed to the Personnel Board, shall be sent to the City Administrator or City Clerk and must be received by the City Administrator or City Clerk within five (5) working days of the date of the decision being appealed.

(3) The Personnel Board shall schedule the hearing to commence within twenty (20) days of receipt of the appeal, and the City Clerk shall notify the employee in writing of the time and place where the hearing will be held. (Ord. 708 §1, 2008)

**Sec. 2-103. Appeal hearing.**

(a) At the request of the employee, the appeal hearing shall be private and confidential to the extent permitted by law. The Personnel Board may require the testimony under oath, if desired, and shall have the authority to compel the testimony of other employees and the City Administrator.

(b) The Personnel Board shall be responsible for the conduct of the appeal hearing and shall consider the evidence and determine relevant facts. The City Attorney shall serve as legal counsel to the Personnel Board in any appeal hearing.

(c) The parties shall have the right to be present and to be represented at the hearing, to present evidence and witnesses and to cross-examine the other party's witnesses.

(d) The hearing shall be tape-recorded or recorded by other appropriate means. The hearing shall not be subject to the rules of evidence governing judicial proceedings, and the Personnel Board shall consider and pass on all objections and other matters raised concerning the conduct of the hearing and may question witnesses when necessary to gather all the facts.

(e) At the conclusion of the hearing, the Personnel Board shall render a written decision containing findings of facts and conclusions and making a decision on the appeal. For employees specified in Subsection 7-6(b) of the City Charter, the Personnel Board shall affirm the discharge if the preponderance of the evidence establishes that the discharge was for cause. The findings and decisions of the Personnel Board shall be binding upon all parties to the appeal, and no further appeal shall be permitted except as may be available pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. (Ord. 708 §1, 2008)

**Secs. 2-104—2-129. Reserved.**

## **ARTICLE 7**

### **Municipal Court**

**Sec. 2-130. Created.**

A qualified Municipal Court of record in and for the City is created and established pursuant to and governed by the provisions of Article 10, Title 13, C.R.S. (Prior code 2.28.010)

**Sec. 2-131. Jurisdiction, powers, procedures.**

The Municipal Court shall have original jurisdiction of all cases arising under the code and other ordinances of the City, with full power to punish violators thereof and set such fines and penalties as are prescribed by ordinance or court rule. (Prior code 2.28.020)

**Sec. 2-132. Contempt of court.**

(a) If a person upon whom a summons has been served pursuant to the Colorado Municipal Court Rules, fails to appear at the time and place for Failure To Appear.

(b) Any person, upon whom a fine or penalty shall have been imposed by the Municipal Court of the City, who fails to pay such fine or penalty within the time limits fixed by said court, shall be guilty of Contempt of Court for Failure To Pay Fine.

(c) Any person appearing in open court, or by counsel, who fails to comply with a lawful order of the court then given, shall be guilty of contempt of court for Failure to Comply. (Prior code 2.28.025; Ord. 257 §1, 1981)

**Sec. 2-133. Failure to appear in Municipal Court.**

Any person who is served with a summons or summons and complaint to appear in the Dacono Municipal Court and fails to appear as provided by law or court rule at the time specified in the summons or summons and complaint or at any subsequent hearing or trial set by the court, shall be in violation of the Dacono Municipal Code. (Prior code 9.16.010; Ord. 290 §1, 1984)

**Sec. 2-134. Failure to pay Municipal Court fine.**

Any person who is assessed a fine and/or penalty by the Dacono Municipal Court and fails to pay such fine or perform the penalty or both within the time limits fixed by the Municipal Court shall be guilty of a violation of the municipal code. (Prior code 9.16.020; Ord. 290 §1, 1984)

**Sec. 2-135. Work supervision fund.**

(a) There is established a Work Supervision Fund, from which costs of supervising Municipal Court work programs shall be paid.

(b) There shall be deposited in such fund, to be disbursed and paid to supervisors upon the receipt of vouchers approved by the chief of police, in such amounts as established by court rule that portion of any fines and costs so assessed and designated by the Municipal Court Judge.

(c) Monies collected by the court for such purpose shall be handled as required by Section 2-138(b).

(d) Scheduling of and payment for work program supervision shall be the responsibility of the police chief. (Prior code 2.28.026; Ord. 275 §1, 1983)

**Sec. 2-136. Sessions.**

There shall be regular sessions of the court for the trial of cases. The Municipal Judge may hold a special session of the court at any time. All sessions shall be open to the public. (Prior code 2.28.030)

**Sec. 2-137. Municipal Judges.**

(a) The court shall be presided over by a Municipal Judge appointed by the City Council.

(b) Compensation of the judge shall be an annual salary, payable in equal increments no less than monthly, in an amount set by the City Council by resolution.

(c) Before entering upon the duties of his or her office, a Municipal Judge shall make an oath or affirmation that he or she will support the Constitution of the state and the ordinances and laws of the City, and will faithfully perform the duties of his or her office. (Prior code 2.28.040; Amended by Charter; Ord. 488 §1, 1997)

**Sec. 2-138. Municipal Court Secretary/Police Secretary.**

(a) There is established the position of Court Secretary/Police Secretary, for the performance of the following functions:

(1) As Court Secretary, to serve as clerk of the Municipal Court and to perform such duties as are assigned by the police chief or the Municipal Court Judge, including but not limited to:

a. Filing monthly reports with the City Clerk of all monies collected by the Court Secretary, and paying over to the City Treasurer all monies in the Court Secretary's hands;

b. Keeping and maintaining a verbatim record of all proceedings and evidence at trials, either by electric devices or stenographic means; and

c. Providing other administrative and clerical services for the Municipal Court.

(2) As Police Secretary, to serve as secretary to the Police Department and to perform such duties as are assigned by the police chief.

(b) When performing duties as Court Secretary, the Court Secretary/Police Secretary shall be under the general supervision of the police chief or, in the police chief's absence, the City Clerk. The evaluation of the Court Secretary/Police Secretary in the performance of duties as Court Secretary shall be performed jointly by the police chief and the Municipal Court Judge.

(c) When performing duties as Police Secretary, the Court Secretary/Police Secretary shall be under the general supervision of the police chief. The evaluation of the Court Secretary/Police Secretary in the performance of duties as Police Secretary shall be performed by the police chief. (Ord. 451 §1, 1994)

**Sec. 2-139. Payment to office of City Clerk.**

All penalties, fines and costs assessed by the Municipal Court shall be payable at, received by and accounted for at the office of the City Clerk. (Ord. 484 §1, 1997)

**Sec. 2-140. Appropriations.**

The City Council shall on an annual basis budget and appropriate such moneys as may be necessary for the proper operations of the Municipal Court. (Prior code 2.28.070)

**Sec. 2-141. Court costs.**

(a) Court costs may be assessed against any defendant who pleads guilty or nolo contendere or who enters into a plea agreement or who, after trial, is found guilty of an ordinance violation as follows:

(1) Twenty dollars (\$20.00): Docket fee on every moving violation or ordinance summons issued.

(2) Fifteen dollars (\$15.00): For first request for continuance, unless the request is for time to retain an attorney or unless the court determines that special circumstances exist.

(3) Thirty dollars (\$30.00): For second and each subsequent request for continuance.

(4) An amount not to exceed seventy-five dollars (\$75.00): On a defendant who has requested a jury upon the finding of guilty by jury, or a plea of guilty or nolo contendere, unless the court has been notified of the prospective plea at least seventy-two (72) hours prior to the trial.

(5) Ten dollars (\$10.00): For each subpoenaed prosecution witness who appears at the trial, upon finding of guilty by the court or jury, or upon the entry of a guilty plea or no contest.

(b) In addition to the court costs set forth in Subsection (a) of this Section, additional court costs which may be assessed are as follows:

(1) Fifty dollars (\$50.00): On a complainant, upon request from the complainant to dismiss any charges seventy-two (72) hours or less before the scheduled trial date.

(2) Fifteen dollars (\$15.00): On a defendant, upon issuance of a warrant.

(3) One hundred dollars (\$100.00): On a defendant, when he or she is picked up on a warrant and transported to any Police Department to post bond or transported to any jail for booking.

(4) Forty dollars (\$40.00): On a defendant, if there has been an outstanding judgment warrant placed against a defendant's drivers license.

(c) Preparation of any record on appellate review or transcripts will cost seventy-five cents (\$.75) per page. No transcript will be started until an appeal bond of twice the amount of the fine has been posted. All copies of the transcript will cost twenty-five cents (\$.25) per page. Copies of all or any part of any record, proceeding or paper on file and in the possession of the court will be fifty cents (\$.50) per page requested.

(d) A twenty-dollar fee shall be assessed against any person who issues a check returned for insufficient funds in any payment of any court fees and shall be in addition to any other penalty or interest provided by law. For the purposes of this Subsection (d), the term *insufficient funds* means not having a sufficient balance in account with a bank or other drawee for the payment of a check when presented for payment within thirty (30) days after issue.

(e) All costs collected or received by the Municipal Court shall be reported and paid at least monthly to the City Treasurer and deposited in the general fund of the City. It is the intention of the City Council, subject to budgeting and appropriation as required by law, that of the docket fee imposed by Section 2-141(a)(1), an amount of eight dollars (\$8.00) be allocated to defray the cost of jailing defendants. (Ord. 412 §1, 1991; Ord. 465 §3, 1996; Ord. 582 §3, 2001)

**Sec. 2-142. Municipal court surcharge.**

(a) A surcharge in the amount of twenty-five dollars (\$25.00) shall be assessed in every case charged into the Municipal Court that results in a conviction (whether by plea or at trial) or deferred sentence and judgment, including penalty assessments for traffic infractions that are paid by mail but excluding parking violations.

(b) All surcharges collected or received by the Municipal Court shall be reported and paid at least monthly to the City Treasurer, who shall deposit and maintain such funds in a separate account to be used as set forth in this Section.

(c) The primary use of the surcharge shall be to fund costs of the Municipal Court and Police Department, including but not limited to costs incurred in connection with the Weld County Dispatch Center, the Juvenile Assessment Center, the Weld County Drug Task Force, the Restorative Justice Program and training and equipment needs of the Municipal Court and Police Department.

(d) The surcharge imposed by this Section may not be suspended or waived by the court unless the court determines the defendant is indigent. (Ord. 715 §1, 2008)

**Secs. 2-143—2-159. Reserved.**

## **ARTICLE 8**

### **Library Department**

**Sec. 2-160. Creation of library department.**

There is hereby created and established a library department. (Ord. 427 §1, 1993)

**Sec. 2-161. Appropriations.**

The City Council shall annually appropriate such amounts as it deems necessary or desirable for the operation of the library department. (Ord. 427 §1, 1993)

**Sec. 2-162. Operation and management.**

The library department shall consist of the library department head and as many assistants as the City Council deems necessary for operation. Volunteers may be authorized by the library department head with the City Administrator's approval. (Ord. 427 §1, 1993)

**Sec. 2-163. Purpose/property.**

The purpose of the library department shall be to make available to the citizens of the City, and to the public at large, books and magazines for the edification and education of all ages, without limit, restriction or censorship, except as to publications offering nothing of social, historical or artistic value. Present and future books, magazines and other publications, as well as equipment, furnishings and fixtures in the library, are and shall be the property of the City. (Ord. 427 §1, 1993)

**Sec. 2-164. Library department head.**

(a) The library department head shall be an officer of the City within the meaning of Article 2 of this Chapter and an employee of the City for purposes of the Dacono Personnel Manual.

(b) The department head shall be responsible to and shall be supervised by the City Administrator in the administration of the matters of the library department.

(c) Compensation of the library department head and other paid library department staff shall be an annual wage or salary in an amount set by the City Council and shall be payable in accordance with the Dacono Personnel Manual.

(d) The library department head shall file monthly reports with the City Treasurer of all moneys collected by the library department and shall pay over all such moneys to the City Cashier.

(e) At the close of each year, the library department head shall make a report showing the sums of money expended and the purposes of the expenditures, the number of books and periodicals on hand, the number added during the year, the number retired, the number loaned out and such other statistics and information as necessary to the public interest. (Ord. 427 §1, 1993)

**Sec. 2-165. Library liaison.**

The municipal library liaison shall be a member of the City Council and shall be appointed or removed by the Mayor. (Ord. 427 §1, 1993)

**Secs. 2-166—2-179. Reserved.**

**ARTICLE 9**

**Employee Social Security and Benefits**

**Sec. 2-180. Authorization.**

The City is authorized to execute and deliver a plan to extend coverage to employees and officers of the City and to do all other necessary requirements including entering into an agreement with the Department of Employment, if necessary, to put into effect coverage of employees and officers under the Old Age and Survivors Insurance System. (Prior code 2.24.010)

**Sec. 2-181. Payroll deduction system.**

The City Clerk is authorized to establish a system of payroll deduction from employees and officers of the City to be matched by payments by the City to be paid into the Contribution Fund of the state Department of Employment and make charges of this deduction to the fund from which wage and salary payments are issued to employees of the City. The payments are to be made in accordance with the provisions of Sections 1400 and 1410 of the Federal Insurance Contributions Act on all services which constitute employment within the meaning of that act. Payments made to the Department of Employment shall be due and payable on or before the eighteenth (18th) day of the month immediately following the completed calendar quarter, and such payments which are delinquent shall bear interest at the rate of six percent (6%) per annum until such time as payments are made. (Prior code 2.24.020)

**Sec. 2-182. Appropriation of contributing funds.**

Appropriation is made from the proper fund or funds by the City in the necessary amount to pay into the contribution fund, as provided in the Federal Insurance Contributions Act, and in accordance with the plan of the City and the agreement with the Department of Employment. (Prior code 2.24.030)

**Sec. 2-183. State agreement – Effective date.**

Authorization is given to the City Council, with the Mayor and the City Clerk signing, to enter into an agreement with the state Department of Employment, if necessary, which agreement shall be in accordance with the terms of the Social Security Act. The plan provided for in the agreement shall state that the participation of the City shall be in effect as of January 1, 1974. (Prior code 2.24.040)

**Sec. 2-184. Deferred compensation program.**

Effective January 1, 1991, full-time salaried employees, as that term is defined in the plan document, are authorized to participate in a deferred compensation program pursuant to Section 457 of the Internal Revenue Code in accordance with the terms of such program, as may be modified from time to time by resolution, at the discretion of the City Council. Any such modification may apply to both current and future employees. (Ord. 384 §2, 1990; Ord. 718 §1, 2008)

**Sec. 2-185. Money purchase pension plan.**

(a) Effective July 1, 1991, full-time salaried employees, as that term is defined in the plan document, are authorized to participate in a money purchase pension plan pursuant to Subsection 401(a) of the Internal Revenue Code in accordance with the terms of such plan, as may be modified from time to time by resolution, at the discretion of the City Council. Any such modification may apply to both current and future employees.

(b) The management of the money purchase pension plan is vested in a pension committee consisting of three (3) members: the City Finance Officer, the City Clerk and a City employee appointed by a majority vote of the City's employees voting thereon. The member appointed by the City's employees may be removed, with or without cause, by a majority vote of the City's employees voting thereon. (Ord. 718 §2, 2008)

**Sec. 2-186. Other benefits.**

Subject to annual appropriations, the City Council may provide by resolution for fringe benefits for salaried employees. Any such fringe benefits may be increased, decreased or eliminated at any time, by resolution, at the discretion of the City Council, and any such increase, decrease or elimination may apply to both current and future employees. (Ord. 384 §2, 1990)

**Secs. 2-187—2-199. Reserved.**

**ARTICLE 10**

**City Irrigation System Advisory Committee**

**Sec. 2-200. Committee created.**

There is hereby created the City Irrigation System Advisory Committee (referred to herein as *committee*). (Ord. 343 §1, 1987)

**Sec. 2-201. Members.**

The committee shall consist of five (5) members. Three (3) members shall be users of the city irrigation system who have been residents of the city for at least thirty (30) continuous days before the date of appointment. Two (2) members shall be city council members. (Ord. 343 §2, 1987)

**Sec. 2-202. Appointment.**

Appointment of committee members shall be by a vote of a majority of the entire city council. A vacancy on the committee shall be filled by the city council within thirty (30) days after the vacancy occurs. (Ord. 343 §3, 1987)

**Sec. 2-203. Term.**

Committee members shall be appointed by the city council for an indefinite term, shall serve at the pleasure of the city council, and may be removed by a vote of a majority of the entire city council. (Ord. 343 §4, 1987)

**Sec. 2-204. Duties.**

(a) The committee shall provide recommendations to the city council on such issues concerning the city irrigation system as referred to the committee by the city council and in the manner directed by the city council.

(b) The committee shall perform such other duties as directed by ordinance, resolution or motion of the city council.

(c) The recommendations of the committee shall be advisory only and shall not be binding on the city council. (Ord. 343 §5, 1987)

**Sec. 2-205. Compensation.**

Committee members shall receive no compensation for their services. (Ord. 343 §6, 1987)

**Secs. 2-206—2-219. Reserved.**

**ARTICLE 11**

**Abandoned Personal Property**

**Sec. 2-220. Definitions.**

As used in this article:

*Abandoned personal property* means personal property which comes into the custody of the city and which is unclaimed by the owner of such property, except for abandoned motor vehicles, for which disposition shall be governed by Section 42-44-1601 et seq., C.R.S., contraband articles, for which disposition shall be governed by Section 16-13-501 et seq., C.R.S., and any other personal property for which a method of disposition is specified by the state statutes as from time to time amended.

*City administrator* means the city administrator or the city administrator's designee. (Ord. 388 §1, 1991)

**Sec. 2-221. Custodian.**

The city administrator shall be the custodian of abandoned personal property. (Ord. 388 §1, 1991)

**Sec. 2-222. Location of owners.**

The city administrator shall make reasonable efforts to identify and locate the owner of abandoned personal property and shall return the property to the owner upon the presentation of satisfactory proof of ownership. (Ord. 388 §1, 1991)

**Sec. 2-223. Escheat.**

If no owner claims ownership of and provides satisfactory proof of ownership of any abandoned personal property within sixty (60) days from the date when the property comes into the custody of the city, then the property shall escheat to and become the property of the city, and no person shall thereafter have any claim or right to the property or any proceeds therefrom. (Ord. 388 §1, 1991)

**Sec. 2-224. Inventory.**

The city administrator shall cause to be maintained a record of all abandoned personal property, including the date on which the property came into the custody of the city, a description of the property, including any serial numbers, and the date and means of disposition of the property. (Ord. 388 §1, 1991)

**Sec. 2-225. Disposal.**

The city administrator may from time to time cause any abandoned personal property which becomes the property of the city as provided in this article to be destroyed or to be sold after advertisement to the highest bidder, and the proceeds of the sale deposited to the general fund of the city. The city administrator, at his or her discretion, may elect not to destroy or sell the property and to vest title to the property in the city. (Ord. 388 §1, 1991)

**Sec. 2-226. Exemptions.**

This article shall not apply to personal property held by the police department as evidence in any court case or held by the police department for investigation. The police department shall retain custody of such property until written notice is received from the person responsible for the court case or the investigation that the property is no longer needed for such purposes, and upon such receipt, the procedures set forth in this article shall apply. (Ord. 388 §1, 1991)

**Secs. 2-227—2-239. Reserved.**

## ARTICLE 12

### Unclaimed Property

#### **Sec. 2-240. Purpose.**

The purpose of this article is to provide for the administration and disposition of unclaimed property which is in the possession of or under the control of the municipality. (Ord. 424 §1, 1992)

#### **Sec. 2-241. Definitions.**

Unless otherwise required by context or use, words and terms shall be defined as follows:

*City Administrator* means the city administrator or the city administrator's designee.

*Municipality* means the City of Dacono, Colorado.

*Owner* means a person or entity, including a corporation, partnership, association, governmental entity other than this municipality, or a duly authorized legal representative or successor in interest of same, which owns unclaimed property held by the municipality.

*Unclaimed property* means any tangible or intangible property, including any income or increment derived therefrom, less any lawful charges, that is held by or under the control of the municipality and which has not been claimed by its owner for a period of more than two (2) years after it became payable or distributable. For the purposes of this article, *unclaimed property* shall not include lost, abandoned or recovered stolen personal property, as provided in Chapter 2, Article 11 of this code. The disposition of abandoned personal property shall be governed by the provision contained in Chapter 2, Article 11, notwithstanding any provision of this article. (Ord. 424 §1, 1992)

#### **Sec. 2-242. Procedure for disposition of property.**

(a) Prior to disposition of any unclaimed property having an estimated value of fifty dollars (\$50.00) or more, the city administrator shall send a written notice by certified mail, return receipt requested, to the last known address, if any, of any owner of unclaimed property. The last known address of the owner shall be the last address of the owner as shown by the records of the municipal department or agency holding the property. The notice shall include a description of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the city administrator with a written claim for the return of the property within sixty (60) days of the date of the notice, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

(b) Prior to disposition of any unclaimed property having an estimated value of less than fifty dollars (\$50.00), or having no last known address of the owner, the city administrator shall cause a notice to be published in a newspaper of general circulation in the municipality. The notice shall include a description of the property, the owner of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The

notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the city administrator with a written claim for the return of the property within sixty (60) days of the date of the publication of the notice, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

(c) If the city administrator receives no written claim within the above sixty (60) day claim period, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

(d) If the city administrator receives a written claim within the sixty (60) day claim period, the city administrator shall evaluate the claim and give written notice to the claimant within ninety (90) days thereof that the claim has been accepted or denied in whole or in part. The city administrator may investigate the validity of a claim and may request further supporting documentation from the claimant prior to disbursing or refusing to disburse the property.

(e) In the event that there is more than one (1) claimant for the same property, the city administrator may, at his or her sole discretion, resolve said claims, or may resolve such claims by depositing the disputed property with the registry of the district court in an interpleader action.

(f) In the event that all claims filed are denied, the property shall become the sole property of the municipality and any claim of the owner of such property shall be deemed forfeited.

(g) Any legal action filed challenging a decision of the city administrator shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within thirty (30) days of such decision or shall be forever barred. If legal action is timely filed, the property shall be disbursed by the city administrator pursuant to the order of the court having jurisdiction over such claim.

(h) The city administrator is authorized to establish and administer procedures for the administration and disposition of unclaimed property consistent with this article, including compliance requirements for other municipal officers and employees in the identification and disposition of such property. (Ord. 424 §1, 1992)

**Sec. 2-243. Sale of unclaimed property.**

The city administrator may from time to time cause any abandoned personal property which becomes the property of the city as provided in this article to be destroyed or to be sold after advertisement to the highest bidder and the proceeds of the sale deposited to the general fund of the city. The city administrator, at his or her discretion, may elect not to destroy or sell the property and to vest title to the property in the city. (Ord. 424 §1, 1992)

**Secs. 2-244—2-259. Reserved.**

## ARTICLE 13

### Elections

#### **Sec. 2-260. Write-in candidates.**

(a) No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the city clerk by the person whose name is written in, prior to twenty (20) days before the day of the election, indicating that such person desires the office and is qualified to assume the duties of that office if elected.

(b) If the only matter before the voters at any election is the election of persons to office and if, at the close of business on the nineteenth (19th) day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent, the city clerk, if instructed by resolution of the city council either before or after such date, shall cancel the election and by resolution declare the candidates elected. Upon such declaration, the candidates shall be published, if possible, in order to inform the electors of the city, and notice of such cancellation shall be posted at each polling place and not less than one (1) other public place. (Ord. 413 §1, 1992)

#### **Sec. 2-261. Participation in coordinated elections.**

Pursuant to section 4-1 of the City Charter and section 1-1-102, C.R.S., the city council elects to utilize the provisions of the *Uniform Election Code of 1992*, Title 1, Articles 1 through 13, C.R.S., ("Uniform Code") in connection with any coordinated election at which the city council, by resolution or ordinance, refers a ballot issue or ballot question. (Ord. 646 §1, 2004)

#### **Secs. 2-262—2-279. Reserved.**

## ARTICLE 14

### Public Facilities

#### **Sec. 2-280. Smoking and tobacco products prohibited.**

(a) As used in this section, the following words shall have the following meanings, unless the context otherwise requires:

*Public building* means any indoor area including but not limited to any office, assembly or meeting room, garage, rest room and any other room of whatsoever nature, and includes any hallway, vestibule, stairwell or other indoor area leading to or contiguous with any such room.

*Smoking* means the carrying of a lighted pipe, lighted cigar or lighted cigarette of any kind and includes the lighting of a pipe, cigar or cigarette of any kind.

*Tobacco products* means any kind or form of tobacco, prepared in such manner as to be suitable for chewing, including but not limited to snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobacco.

(b) Smoking and the use of tobacco products are prohibited in any public building or vehicle owned or leased by the city, or within a distance of five (5) feet of any public building owned or leased by the city; except that the prohibitions of this subsection shall not apply in the room located on the northwest side of the basement of the city hall. (Ord. 418, §1, 1992; Ord. 457 §§2-4, 1995)

**Secs. 2-281—2-299. Reserved.**