

**ORDINANCE NO. 802**

**AN ORDINANCE ESTABLISHING CONDITIONS, RESTRICTIONS AND REQUIREMENTS FOR SPECIAL DISTRICTS WITHIN THE CITY**

**WHEREAS**, the Special District Control Act, C.R.S. § 32-1-201, *et seq.*, requires the City Council’s approve before any special district may be organized within the City’s municipal boundaries; and

**WHEREAS**, pursuant to such authority, the City Council has approved organization of several special districts located within the City; and

**WHEREAS**, the City Council finds the standard conditions, restrictions and requirements for the formation of such districts set forth herein will improve the efficiency with which the City responds to requests for special district formation and help maintain uniformity among districts within the City.

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

**Section 1.** Chapter 4 of the Dacono Municipal Code is hereby amended by the addition of a new Article 5 to read as follows:

**CHAPTER 4**

**Revenue and Finance**

**Article 5 Special Districts**

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**Sec. 4-150. - Legislative declaration.**

(a) Special districts (“districts”) organized under Title 32, Article 1, C.R.S. (the “Special District Act”), under appropriate circumstances, provide an economic alternative to the development of municipal infrastructure at the

expense and risk of the City. The intent of this Article is to impose conditions, restrictions and requirements on districts in order to preserve the financial integrity of the City and the health, safety, prosperity, security and general welfare of the residents of the City. The provisions of this Article are also intended to provide procedures for the processing and review of proposals for formation of new districts and conversions of the service plans of existing districts, to define the restrictions and limitations which may be imposed by the City as a condition to the approval of such districts that are consistent with the policy and intent of this Article, and to identify circumstances under which a material modification of the service plan has occurred that require a service plan amendment.

The primary purpose of a district is to fund the local public improvements and facilities necessary for the development of private property. Districts may provide for the continued operation and maintenance of such facilities only as provided in their respective approved service plans and the intergovernmental agreement executed by the district and the City. Districts are prohibited from developing or constructing any public improvements unless such public improvements are authorized under the service plan, the intergovernmental agreement and any applicable City ordinances, and are identified in a final plat or in an agreement guaranteeing the construction of the required public improvements.

(b) The City, in furtherance of the best interests of its residents and the preservation and protection of the health, safety, prosperity, security and general welfare of its residents, declares its intent:

(1) To prevent the indebtedness incurred by districts from adversely affecting the credit worthiness and credit ratings of the City;

(2) To ensure that the cost burden of infrastructure in newly-developed areas is placed upon those benefitting from such infrastructure improvements;

(3) To prevent the shifting of development risk to nondevelopers;

(4) To minimize the likelihood of excessive tax and fee burdens upon City residents located within districts;

(5) To require facilities and services to be provided efficiently;

(6) To prevent the shifting of costs of districts to residents of the City who do not live within the geographic boundaries of a district;

and

(7) To permit the use of districts to serve only those residential, commercial or industrial developments that will enhance the quality of the entire community.

(c) The adoption of this Article is necessary, requisite and proper for the government and administration of local and municipal matters under the City's authority.

**Sec. 4-152. Definitions.**

As used in this Article, the following terms, phrases and words shall have the following meanings:

*Board of directors* means the board of directors of a district.

*Debt or indebtedness* means bonds, notes, debentures, certificates, contracts, capital leases or other multiple fiscal year obligations for the payment of which a district has promised to impose an ad valorem property tax mill levy; collect or receive fees; and/or levy special assessments.

*Development approvals* means, as applicable, the final plat, the subdivision improvement agreement, or both.

*District* means a special district organized pursuant to the Special District Act, whose service plan is to be approved by the City under this Article and applicable state law, and any existing district whose service plan was approved prior to the effective date of this Article and is currently within the corporate limits of the City.

*Enhanced infrastructure* means public improvements, usable public open space and/or public recreational amenities that exceed the requirements set forth in Article 14 of Chapter 17 of the City Code. Upon the attainment of Final Plat Approval, execution of a subdivision improvement agreement, and amendment of the intergovernmental agreement, a district may impose up to an additional fifteen (15) mills on the property within the district boundaries, over and above the fifty (50) mill limit, which additional mill levy shall be identified in the amendment to the intergovernmental agreement, along within any guarantees of the District for the provision of such enhanced infrastructure and shall be used for the purpose of the provision by the district of enhanced infrastructure as such enhanced infrastructure is identified on the final plat. The City Council shall have absolute discretion in the determination of how many additional mills (up to the fifteen (15) mill limit), if any, the district may be

permitted to impose for the provision of enhanced infrastructure.

*Final plat* means a plat as approved in its final form by the City pursuant to the City Code, and as may be amended from time to time pursuant to the City Code, that identifies, among other things, the public improvements and any enhanced infrastructure to be constructed by the district that are necessary to serve the property within the subdivision boundaries.

*Intergovernmental agreement* means the intergovernmental agreement between a district and the City regarding the provisions of the service plan, which intergovernmental agreement may be amended from time to time by the district and the City.

*Limited mill levy* means the ad valorem mill levy (a mill being equal to 1/10<sup>th</sup> of 1 cent) a district is permitted to impose upon the taxable property within the district for payment of debt and operation and maintenance costs, which limited mill levy shall not exceed fifty (50) mills, or sixty-five (65) mills in the event the district provides enhanced infrastructure; provided, however, that if, on or after January 1 of the year of approval of the service plan, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement, the limited mill levy may be increased or decreased to reflect such changes, such increases and decreases to be determined by the board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the limited mill levy, as so adjusted, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation. No limited mill levy shall be imposed until final plat approval has been obtained.

*Model service plan* means the City's model Title 32 special district service plan, as the same may be amended from time to time by the City Council. There shall be a single-district model service plan and a multiple-district model service plan.

*Operation and maintenance costs* means (1) planning and design costs of public improvements; (2) the costs of repair, replacement and depreciation of the public improvements; (3) the costs of any covenant enforcement and design review services the district may provide; and (4) the costs of ongoing administrative, accounting and legal services to the district.

*Petitioners* means those persons proposing a service plan or an amendment to an approved service plan.

*Preliminary plat approval* means approval, including satisfaction of any conditions of approval, of the preliminary plat pursuant to the City Code, which approval identifies, among other things, the Public Improvements and any Enhanced Infrastructure to be constructed by the District that are necessary to serve the property within the subdivision boundaries.

*Public improvements* means a part or all of the improvements, including any enhanced infrastructure, authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed by the district, as generally described in the Special District Act and in accordance with the final plat, except as specifically limited by the service plan, which improvements benefit the property and inhabitants of the property within the district boundaries, as determined by the board of directors.

*Service plan amendment* means an amendment to an existing service plan approved by the City Council in accordance with this Article and the Special District Act.

*Service plan conversion* means, for a district currently within the corporate limits of the City with an existing service plan that was approved prior to the effective date of this Article, the reasonable conformance of the provisions of the existing service plan to those of the model service plan pursuant to Section 4-164. Any district seeking to convert its service plan under this Article must have in place an approved, unexpired preliminary plat for the development.

*Subdivision improvement agreement* means an agreement made between a subdivider and the City to guarantee construction of all required improvements, including streets, curbs and gutters, driveways, sidewalks, storm drainage systems, potable water systems, streetlights and landscaping.

#### **Sec. 4-154. Reservation and construction.**

In addition to the power, authority and protection set forth in this Article, the City reserves all the powers and authority granted to municipalities by the Special District Act and Article XX of the Constitution of the State of Colorado, as well as the power and authority of the City derived from its Charter. The provisions of this Article shall be construed and applied to supplement the applicable provisions of the Special District Act, and in the event that any conflicts exist between the Special District Act and this Article, such inconsistencies are specifically intended and the provisions of this article shall control, it being the intention that all requirements for the processing of proposed service plans for districts within the City's boundaries are contained in this Article.

**Sec. 4-156. Presubmittal meeting.**

Petitioners shall initiate a service plan proposal by meeting with the Community Development Director to discuss the procedures and requirements for a service plan. The Community Development Director shall explain the administrative process and provide information to assist petitioners in the orderly processing of the proposed service plan.

**Sec. 4-158. Filing of proposed service plan.**

(a) No later than 120 days before the next applicable election date, Petitioners shall submit one electronic copy (in Word or other format as may be requested by the City) and five (5) hard copies of a proposed service plan to the Community Development Director. No service plan shall be accepted by the Community Development Director unless preliminary plat approval has been obtained and has not expired at the time of filing of the proposed service plan. The proposed service plan shall substantially comply with the format of the model service plan adopted by resolution of the City Council, a copy of which is maintained on file with the City Clerk, and any request for deviations from the model service plan shall be identified in the form of both a memo addressed to the Community Development Director summarizing the request for changes as well as a blacklined version of the model service plan identifying the requested changes and the reason for such requested changes. The proposed service plan shall also include, as an exhibit, a proposed intergovernmental agreement between the district and the City which shall substantially comply with the format of the intergovernmental agreement which is maintained on file with the City Clerk.

(b) Petitioners shall, at the time of the submission of the proposed service plan, pay a processing fee and review fee deposit, which shall be in the amounts established from time to time by resolution of the City Council. If the City Council determines that special review of the service plan is required, the City Council may impose a special review fee to reimburse the City for reasonable direct costs related to such special review. The City Council may waive all or any portion of the processing fee and/or review fee deposit for smaller districts initiated by the City's existing residents or businesses. All Petitioners shall execute a cost assumption and funds deposit agreement constituting its agreement to reimburse all costs incurred by the City in the review of the service plan or service plans, including but not limited to attorney, financial advisor, engineer and similar consultant fees.

(c) A copy of the petition to be filed with the district court must be

included with the proposed service plan filed with the City.

**Sec. 4-160. District Limitations and Intergovernmental Agreement.**

In addition to the requirements of C.R.S. § 32-1-202 (2), as the same may be amended from time to time, the proposed service plan shall provide as follows:

(1) The district shall be authorized to impose a limited mill levy upon the taxable property within the district boundaries, for payment of debt and operation and maintenance costs on the property within the district boundaries, which limited mill levy shall be an ad valorem mill levy (a mill being equal to 1/10<sup>th</sup> of 1 cent) no greater than fifty (50) mills, or sixty-five (65) mills in the event the district provides enhanced infrastructure; provided, however, that if, on or after January 1 of the year of approval of the service plan, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement, the limited mill levy may be increased or decreased to reflect such changes, such increases and decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the limited mill levy, as so adjusted, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

(2) All debt issued by the district must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law. On or before the effective date of approval of final plat by the City, the district shall not: (a) issue any debt; (b) impose a mill levy for the payment of debt by direct imposition or by transfer of funds from the operating fund to a debt service fund; (c) impose any fees or collect any public improvement fees to be used for the purpose of payment of debt; or (d) levy any special assessments to be used for the purpose of the payment of debt. The term of any debt instrument issued by the district shall not exceed forty (40) years.

(3) The district shall not pledge any revenue or property of the City as security for the indebtedness set forth in the service plan. Approval of the service plan shall not be construed as a guarantee by the City of payment of any of the district's debt obligations, nor shall anything in the service plan be construed so as to create any responsibility or liability on the part of the City in the event of default by

the district in the payment of any such debt obligation.

(4) Any debt issued by a district with a pledge or which results in a pledge that exceeds the limited mill levy shall be deemed a material modification of the service plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of debt unless and until such material modification has been approved by the City as part of a service plan amendment. The City shall be entitled to all remedies available at law to enjoin such actions of the district, including the remedy of enjoining the issuance of additional authorized but unissued debt, until such material modification is remedied.

(5) Unless otherwise modified in the provisions of the intergovernmental agreement between the City and the district, the district shall comply with the following requirements, which shall be set forth in the service plan. All consents from the City referenced herein shall be in the form of a City Council resolution and all notifications referenced herein shall be in writing.

a. Operation and maintenance limitation. The District shall dedicate the public improvements to the City or other appropriate jurisdiction or owners association in a manner consistent with the Development Approvals, the Intergovernmental Agreement, other rules and regulations of the City, and applicable provisions of the City Code. Except for park and recreation improvements, the district shall not be authorized to operate and maintain any part or all of the public improvements unless the provision of such operation and maintenance is pursuant to the intergovernmental agreement with the City. The district shall have the power to provide ongoing covenant enforcement and design review services in accordance with the Special District Act as part of its ongoing operation and maintenance activities.

b. Fire protection limitation. The district shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services, unless such facilities and services are provided pursuant to a written agreement with the City and with the Mountain View Fire Protection District. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision.



c. Television relay and translation limitation. The district shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain television relay and translation facilities and services, other than for the installation of conduit as a part of a street construction project, unless such facilities and services are provided pursuant to the intergovernmental agreement.

d. Limitation on extraterritorial service. The district shall be authorized to provide services or facilities outside the district boundaries, or to establish fees, rates, tolls, penalties or charges for any services or facilities only in accordance with a final plat, the intergovernmental agreement, or other agreement to which the City is a party or otherwise gives its prior consent.

e. Telecommunication facilities. The district agrees that no telecommunication facilities shall be constructed except pursuant to the intergovernmental agreement and that no such facilities owned, operated or otherwise allowed by the district shall affect the ability of the City to expand its public safety telecommunication facilities or impair existing telecommunication facilities.

f. Construction standards limitation. The district will ensure that the public improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The district will obtain the approval of civil engineering plans from the appropriate jurisdiction and will obtain applicable permits for construction and installation of public improvements prior to performing such work.

g. Zoning and land use requirements. The district shall be subject to all of the City's zoning, subdivision, building code and other land use requirements.

h. Growth limitations. The City shall not be limited in implementing City Council or voter approved growth limitations, even though such actions may reduce or delay development within the district and the realization of district revenue.

i. Conveyance. The district agrees to convey to the City, at no cost to the City, any interest in real property owned by the district that is necessary, in the City's sole discretion, for any

City capital improvement projects for transportation, utilities or drainage, so long as such conveyance does not interfere with the district's ability to construct, operate and/or maintain public infrastructure, as the same may be limited by the service plan.

j. Eminent domain. The district shall be authorized to utilize the power of eminent domain only after prior consent from the City. In the event this limit on the district's ability to exercise the power of eminent domain inhibits the district's ability to issue debt, or will cause the interest on any debt issued by the district to be included in gross income for federal income tax purposes, and the district shall have obtained the written opinion of bond counsel with respect to the foregoing, the limit set forth herein or in the intergovernmental agreement on the district's ability to exercise the power of eminent domain shall be of no further force or effect, retroactive to the date of the organization of the district, if the avoidance of the interest on debt being included in gross income for federal income tax purposes as described in this paragraph so necessitates.

k. Water rights/resources limitation. Any water rights and resources owned, acquired or adjudicated by the district shall be dedicated to the City, at no cost to the City.

l. Inclusion and exclusion limitation. The district shall not include any properties into its boundaries or exclude any property from its boundaries without the prior consent of the City.

m. Overlap limitation. Without the prior consent of the City, the boundaries of the district shall not overlap with any other district formed under the Special District Act if such overlap will cause the combined aggregate mill levy to exceed the limited mill levy.

n. Sales and use tax. The district shall not exercise its City sales and use tax exemption.

o. Monies from other governmental sources. The district shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities that the City is eligible to apply for, except pursuant to the intergovernmental agreement. This section shall not apply to specific ownership

taxes which shall be distributed to and be a revenue source for the district without any limitation.

p. Consolidation limitation. The district shall not file a request with any Court to consolidate with another Title 32 district without the prior consent of the City, unless such consolidation is with one of the other districts to which the service plan applies.

q. Subdistrict limitation. The district shall not create any subdistrict pursuant to Section 32-1-1101, C.R.S. without the prior consent of the City.

r. Fees. The district may impose and collect fees for services, programs or facilities furnished by the district, and the district may from time to time increase or decrease the fees. The district may use the revenue from fees for the payment of operation and maintenance costs and for the payment of any indebtedness of the district.

s. Special assessments. The district may establish one or more special improvement districts within the district boundaries and may levy a special assessment with the special improvement district in order to finance all or part of the costs of any public improvements to be constructed, installed or maintained by the district.

t. Public improvement fees. The district may receive revenue from a public improvement fee on taxable retail sales transactions within the district boundaries only with the consent of the City.

u. Bankruptcy. All of the limitations contained in the service plan, including, but not limited to, those pertaining to the limited mill levy, fees, special assessments and public improvement fees, have been established under the authority of the City to approve a service plan pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

- i. Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a service plan amendment; and
- ii. Are, together with all other requirements of

Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

The filing of any bankruptcy petition by the district shall constitute, simultaneously with such filing, a material departure of the express terms of the service plan, thus necessitating a material modification that must be submitted to the City for its consideration as a service plan amendment.

v. Reimbursement agreement. If the district utilizes reimbursement agreements to obtain reimbursements from third-party developers or adjacent landowners for costs of improvements that benefit third-party landowners, any and all resulting reimbursements received for public improvements shall be deposited in the district’s debt service fund and used for the purpose of retiring the district’s debt.

(6) Intergovernmental Agreement. The district shall enter into a written agreement with the City, to be executed at the first meeting of the board of directors after such district is formed, that the district will be bound by each of the terms and conditions set forth in its approved service plan. Prior to the imposition of an additional mill levy, if any, for the purpose of enhanced infrastructure, the intergovernmental agreement shall be amended to reflect the same.

**Sec. 4-162. Material modifications to existing service plans.**

(a) The model service plan has been designed with sufficient flexibility to enable districts to provide required services and facilities under evolving circumstances without the need for numerous amendments. Actions of a district enumerated below shall be deemed to be material modifications to the service plan requiring a service plan amendment, and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the district, including the remedy of enjoining the issuance of additional authorized but unissued debt, until such material modification is remedied:

(1) The occurrence of any event or condition which is defined under the service plan or intergovernmental agreement as necessitating

a service plan amendment.

(2) The material default by a district under any agreement with the City pertaining to the development of the property within the district boundaries, including the intergovernmental agreement.

(3) Any change in the stated purposes of the district or additions to the types of facilities, improvements or programs provided by the district;

(4) Any action or proposed action by the district which would interfere with or delay any planned or required dissolution of the district.

(5) Any of the events or conditions enumerated in Section 32-1-207(2), C.R.S.

(b) Should a district dispute that one or more of the occurrences enumerated above is a material modification, the district may request a hearing before the City Council after consultation with City staff. After hearing and receipt of any relevant information presented by the district and the recommendation of City staff, the City Council shall make a finding as to whether such occurrence constitutes a material modification. In the event it is found that a material modification has taken place, the district shall submit its request for a service plan amendment in accordance with this Article, unless waived by the City Council. Upon a finding that no material modification has taken place, the district shall be relieved from obtaining an amendment. The City Council may, however, require a later service plan amendment if the change or deviation, on a cumulative basis or for any other reason, subsequently becomes material. In making its determination, the City Council shall consider, among other relevant information, whether the modification will have a probable adverse financial impact on the City.

(c) Except when the City Council has determined that no material modification has occurred after a hearing, within ninety (90) days of the occurrence of an action or event that violates a condition or restriction enumerated in this Section, or the determination by the City Council after a hearing that a material modification has occurred, the district shall forward an appropriate petition to the City Council for approval requesting a service plan amendment. The petition for the service plan amendment shall include:

(1) Any information or documentation required under the applicable provisions of the Special District Act;

(2) Any material changes since the service plan was last

reviewed and approved by the City Council to any of the information, assumptions or projections furnished in conjunction with the petition for approval of organization of a district or contained in the service plan;

(3) A detailed explanation of the activity, events or conditions which resulted in the material modification, including what action was taken or alternatives considered, if any, by the district to avoid the action, event or condition;

(4) The impact of the material modification on the district's ability to develop the public improvements necessary to meet its capital development plan;

(5) The effect of the material modification on the district's ability to retire as scheduled its debt and its ability to issue and market additional debt, if any;

(6) A current financial plan for the district reflecting development absorption rates anticipated within the district's service area, projected annual revenues and expenditures based upon such projected absorption rates, debt issuance and amortization schedules and a projection of anticipated capital outlays;

(7) The financial impact of the modification on existing residents of the district;

(8) An updated five-year capital improvements plan, and an updated schedule and cost estimate for any infrastructure yet to be completed; and

(9) What alternatives or options are available to the district if the requested amendment is not approved.

(d) All of the required information shall be supported by appropriate technical analysis, reports and supporting documents of qualified professionals and consultants. The service plan amendment shall be processed and reviewed in the same manner as prescribed by this Article for a proposed service plan, and the processing fee and review deposit shall be in the amounts established from time to time by resolution of the City Council. If the City Council determines that special review of the service plan amendment is required, the City Council may impose a special review fee to reimburse the City for reasonable direct costs related to such special review. A district shall execute a cost assumption and funds deposit agreement constituting its agreement to reimburse all costs incurred by the City in the review of the service plan amendment, including but

not limited to attorney, financial advisor, engineer and similar consultant fees. This Section shall not impair the right of the City to bring an action in the district court to enjoin the activities of the district pursuant to Section 32-1-207(3)(b), C.R.S.

**Sec. 4-164. Service plan conversions.**

(a) If a district's service plan was approved prior to the effective date of this Article and the district is currently within the corporate limits of the City and preliminary plat approval for the development within the district has been obtained and has not expired, the district may apply to the City for an amendment to its existing service plan to reasonably conform the provisions of the existing service plan to those of the model service plan. To the extent possible, the proposed service plan conversion shall substantially comply with the format of the model service plan, which is maintained on file with the City Clerk, and all nonconformances from the model service plan shall be identified in the form of both a memo addressed to the Community Development Director summarizing the requested changes, as well as a blacklined version of the model service plan identifying such requested changes. One electronic copy (in Word or other format as may be requested by the City) and five (5) hard copies of the proposed service plan conversion shall be submitted to the Community Development Director, along with a copy of the original service plan. The proposed service plan conversion shall also include, as an exhibit, a proposed intergovernmental agreement between the district and the City which shall, to the extent possible, substantially comply with the format of the intergovernmental agreement which is maintained on file with the City Clerk. In addition, the district shall submit information addressing the following items:

(1) A copy of the most recent annual report submitted by the district to the City;

(2) A copy of the TABOR notice from any elections conducted by the district;

(3) A schedule of all current mill levies, fees, charges and assessments and a projection of the revenues expected to be raised therefrom;

(4) Copies of any existing agreements between the district and the City and copies of any existing agreements between the District and any other party, including any developer reimbursement agreements;

(5) If no debt has been issued: a current financial plan for the

district reflecting development absorption rates anticipated within the district's boundaries, projected annual revenues and expenditures based upon such absorption rates, debt issuance and amortization schedules, and a projection of anticipated capital outlays;

(6) If debt has been issued, including any refunding debt: an amortization schedule for such debt, a schedule of the electoral authorization utilized by the issuance of such debt, and a plan identifying future debt issuances.

(7) An updated five-year capital improvements plan, including a catalogue of completed infrastructure and an updated schedule and cost estimate for infrastructure yet to be completed.

(b) All of the required information shall be supported by appropriate technical analysis, reports and supporting documents of qualified professionals and consultants. The service plan conversion shall be processed and reviewed in substantially the same manner as prescribed by this Article for a proposed service plan, and the processing fee and review deposit shall be in the amounts established from time to time by resolution of the City Council. If the City Council determines that special review of the service plan conversion is required, the City Council may impose a special review fee to reimburse the City for reasonable direct costs related to such special review. A district shall execute a cost assumption and funds deposit agreement constituting its agreement to reimburse all costs incurred by the City in the review of the service plan conversion, including but not limited to attorney, financial advisor, engineer and similar consultant fees.

#### **Sec. 4-166. Public hearing and written determination.**

(a) The City shall schedule a public hearing before the City Council for the proposed service plan or service plan amendment, whether the result of a material modification or a service plan conversion. Public notice shall be given in accordance with the requirements of Section 32-1-204, C.R.S.

(b) The hearing held by the City Council shall be open to the public. Any testimony or evidence which, in the discretion of the City Council, is relevant to the organization of the district or the amendment or conversion of the service plan shall be considered.

(c) After consideration of the proposed service plan, reports and any evidence and testimony accepted or taken at the public hearing, the City Council shall approve without condition, approve with condition or disapprove the service plan, amendment, or conversion, applying the following criteria, as the



same are applicable:

(1) Whether there is a sufficient existing and projected need for organized service in the area to be serviced by the proposed district;

(2) Whether the existing service in the area to be served by the proposed district is inadequate for present and projected needs;

(3) Whether the proposed district is capable of providing economical and sufficient service to the area within its proposed boundaries; and

(4) Whether the area to be included in the proposed district has or will have the financial ability to discharge the proposed indebtedness on a reasonable basis.

(d) Within thirty (30) days after the public hearing, the City Council shall adopt a resolution regarding the proposed service plan or service plan amendment. If the service plan or service plan amendment is approved, a resolution of approval shall be adopted. If the service plan or service plan amendment is disapproved, a resolution for such disapproval shall be adopted, including the reasons for such disapproval. If the service plan or service plan amendment is conditionally approved, the amendments to be made therein, or additional information relating thereto, together with the reasons for such amendments or additional information, shall be set forth in writing, and the hearing shall be continued until such amendments or additional information is incorporated in the service plan or service plan amendment. Upon the incorporation of such amendments or additional information in the proposed service plan or service plan amendment, the City Council shall adopt a resolution of approval. The City Council resolution shall document the City Council's final determination for the purpose of any appeal to the district court.

#### **Sec. 4-168. Sanctions.**

Should any district fail to comply with any applicable provision of this Article, the City Council by resolution may impose one (1) or more of the following sanctions, as it deems appropriate:

(1) Exercise any applicable remedy under the Special District Act;

(2) Withhold the issuance of any permit, authorization, acceptance or other administrative approval necessary for the district's development or construction of public improvements;

(3) Exercise any legal remedy under the terms of any intergovernmental agreement under which the district is in default; or

(4) Exercise any other legal remedy, including seeking injunctive relief against the district, to ensure compliance with the provisions of this Article.

**Section 2.** If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 3.** The repeal or modification of any provision of any prior ordinance by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

**Section 4.** All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED BY TITLE this 28<sup>th</sup> day of September, 2015.**


**PUBLIC HEARING AND SECOND READING WILL BE THE 12<sup>th</sup> day of October, 2015, AT 6:00 P.M. AT DACONO CITY HALL, 512 CHERRY STREET, DACONO, CO.**

**READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this 12th day of October, 2015.**

CITY OF DACONO, COLORADO

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

ATTEST:

  
\_\_\_\_\_  
Valerie Taylor, City Clerk

Summary of Ordinance No. 802, **“AN ORDINANCE ESTABLISHING CONDITIONS, RESTRICTIONS AND REQUIREMENTS FOR SPECIAL DISTRICTS WITHIN THE CITY.”**: Establishes conditions, restrictions and requirements for the formation of new special districts and conversion of existing special districts within the City.