



**HOME RULE CHARTER
COMMISSION MEETING**

Virtual Meeting
3 S. Timber Ridge Parkway, Severance, CO 80550

**AGENDA
MEETING 2020-03HRCC
Monday, December 21, 2020 – 6:00 p.m.**

Light Supper for the Commission (5:30)

A. CALL TO ORDER

1. Roll Call

2. Pledge of Allegiance

3. Approval of Agenda

4. Public Comment:

The purpose of the Public Comment is for members of the public to speak to the Home Rule Charter Commission on any subject not scheduled on the Agenda. To accomplish scheduled agenda items, comments should be limited to three minutes. The Home Rule Charter Commission shall make no decision or action on comments, except to schedule the matter for decision later. Those addressing the Home Rule Charter Commission are requested to state their name and address.

5. Approval of Minutes (pg. 3)

- 2020-02VHRC 12.7.2020

B. REGULAR MEETING

1. Presentation by CML (Kevin Bommer) (pg. 6)

2. Article I (pg. 30)

- Discussion
- Action

3. Article II (pg. 35)

- Discussion

- Action
- 4. **Article III (pg. 38)**
 - Discussion
- 5. **Article IV (pg. 48)**
 - Discussion
- 6. **Article V (pg. 52)**
 - Discussion
- 7. **Article VI (pg. 54)**
 - Discussion
- 8. **Articles VII-XIII (pg. 57)**
 - Possible Discussion

C. STAFF REPORTS

D. ADJOURN

*Virtual Home Rule Charter Commission Meeting 2020-03
Monday, December 21, 2020 6:00 PM (MDT)*

*Registration URL
https://us02web.zoom.us/webinar/register/WN_Nh5lQI0kTFqTkwoMcNogLw*



**HOME RULE CHARTER
COMMISSION MEETING**

Hybrid Meeting
3 S. Timber Ridge Parkway, Severance, CO 80550

**MINUTES
MEETING 2020-02HRCC
Monday, December 7, 2020 - 6:00 p.m.**

Commissioners Present:

Julie Stout
Donald McLeod
Rodney Simpson
Frank Baszler
Matthew Fries
Dan Meyers
Joe Pirrone
Jennifer Nethery
Josh Green
Janet Deason
Melissa Wilson
Dave Bruen

Absent:

Mercedes Hernandez
Kerri Iserman

Staff Present:

Nicholas Wharton, Town Administrator
Lindsay Radcliff-Coombes, Assistant Town Administrator
Michael Jenner, Town Clerk

A. CALL TO ORDER

- 1. Roll Call**
- 2. Pledge of Allegiance**
- 3. Approval of Agenda**

MOTION WAS MADE BY COMMISSIONER McLEOD second by Commissioner Meyers to approve the agenda. All Commission members present voting **YES**,

MOTION PASSED

4. Public Comment:

The purpose of the Public Comment is for members of the public to speak to the Home Rule Charter Commission on any subject not scheduled on the Agenda. To accomplish scheduled agenda items, comments should be limited to three minutes. The Home Rule Charter Commission shall make no decision or action on comments, except to schedule the matter for decision later. Those addressing the Home Rule Charter Commission are requested to state their name and address.

- None

5. Approval of Minutes

- 2020-01VHRC 11.16.2020

MOTION WAS MADE BY COMMISSIONER PIRRONE second by Commissioner McLeod to approve the 2020-01VHRC 11.16.2020 minutes. All Commission members present voting **YES**,

MOTION PASSED

B. REGULAR MEETING

1. Presentation by CIRSA (SAM LIGHT)

2. Draft Home Rule Charter

- Discussion

3. Home Rule Charter Article I

- Discussion

4. Home Rule Charter Article II

- Discussion

5. Home Rule Charter Article III

- Discussion- The Charter Commission only made it through half of article III.

MOTION WAS MADE BY COMMISSIONER McLEOD second by Commissioner Green to adjourn the meeting at this time. All Commission members present voting **YES**,

MOTION PASSED

6. Home Rule Charter Article IV through XIII

- Possible Discussion- These topics were not discussed on this date.

C. ADJOURN

-Meeting adjourned at 10:03 PM

**TOWN OF SEVERANCE
HOME RULE CHARTER COMMISSION**

Commissioner Matt Fries, Chair

ATTEST:

Joe Pirrone, Secretary



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Presentation by CML	Nicholas J. Wharton, MPA	Kevin Bommer
ACTION REQUESTED		
Kevin Bommer, Executive Director for Colorado Municipal League (CML), will be providing a presentation on Home Rule.	<input checked="" type="checkbox"/> <u>Presentation</u> <input type="checkbox"/> Discussion <input type="checkbox"/> Approval <input type="checkbox"/> Action Requested	
BRIEF SUMMARY		
<p>Kevin Bommer is responsible to CML's 21-member executive board for executing the policies and programs of the League, supervising staff members, managing and coordinating activities and operations, recommending and developing organization policies and programs, and serving as a spokesperson for League policies. Kevin also directs the League's advocacy program and oversees CML's strategic plan development and implementation. Prior to being appointed executive director in April 2019, Kevin served as the League's deputy director from 2012 to May 2019 and was a full-time lobbyist from 2001 to May 2019.</p>		
ADMINISTRATION ANALYSIS AND RECOMMENDATION		
<p>No Comment.</p>		
MATERIALS SUBMITTED		
<p>The following materials were submitted and included in this packet:</p> <ul style="list-style-type: none"> • Presentation By CML 		

Overview of Colorado Municipal Home Rule

by Kevin Bommer, Executive Director
Colorado Municipal League



COLORADO
MUNICIPAL
LEAGUE

The views expressed at this forum are those solely of the presenter, and
any legal advice should be obtained by appropriate legal counsel

Prepared in 2020



COLORADO
MUNICIPAL
LEAGUE

Municipal Home Rule in Colorado

- Municipalities lacking home rule status are limited to exercising those powers that have been granted by the state
 - 1902 - Citizens in cities of the first and second class may adopt home rule under amendment to the Colorado Constitution
 - 1912 - Section 6 of Article XX specifically enumerated various municipal home rule powers with a “catch-all” paragraph
 - 1970 - Section 9 extended the right to adopt home rule to the citizens of every municipality
- Article XX of the Colorado Constitution reserves both *structural* and *functional* home rule powers to municipalities and “the full right of self government in local and municipal matters “ to citizens

General Arguments For Home Rule

- Article XX of the Colorado Constitution grants both general and specific powers to home rule municipalities
- Provides greater flexibility to solve local problems because municipalities are less constrained by state requirements
- Allows quicker response time to emergency situations as there is no need to wait for the entire state legislative process
- Home rule municipalities are not required to follow state statutes in matters of *local and municipal concern* and therefore enjoy freedom from state interference regarding local and municipal matters

General Arguments For Home Rule

- Allows municipalities to legislate with confidence on any and all matters of local concern
 - Authority granted by state statutes is sometimes ambiguous
- Enhances citizen control, interest, involvement and pride in their municipal government
- The embodiment of the principle that the best government is the one that is the closest to the people



General Arguments Against Home Rule

- Restrictive charters may limit the potential flexibility of home rule
- Dissatisfied citizens may adopt binding charter amendments, i.e. amendments which cannot be changed or repealed by the governing body without a subsequent vote of the people
- Legal uncertainties may arise when the municipality legislates in a relatively new area; the ultimate determination of whether a matter is truly of “local concern” requires an ad hoc determination in court

General Arguments Against Home Rule

- Costs for adopting a home rule charter can burden the municipality (i.e. attorney's or other consultant's fees, expenses incurred from publication requirements, election costs, etc.)
- A change in the status quo may create unnecessary risks in a community that is satisfied operating under existing statutes
- Unless restricted by the charter, a home rule municipality has the potential to exercise more governmental powers than are available to statutory municipalities, which some local citizens may see as a disadvantage

Timeline for Home Rule Election

- Within 180 days of its election, the charter commission shall submit to the governing body a proposed charter
- Within 30 days after the date that the charter commission submits the proposed charter to it, the governing body shall publish and give notice of an election to determine whether the proposed charter shall be approved
- The election shall not be held less than 60 nor more than 185 days after publication of the notice

Drafting a Home Rule Charter

Under Colorado law, the charter is principally an instrument of limitation in Colorado.

The charter sets forth the basic:

1. structure and organization of government;
2. procedures to be followed by municipal government in the conduct of its business;
3. powers of municipal officials and agencies, including any limitations.

It is not necessary for the charter to spell out the details of municipal operations

- Details can be left to the governing body.
- State law applies in the absence of a charter or ordinance provision.

Charters are not easily or readily amended; consequently, great care must go into their drafting and unnecessary details and verbiage should be avoided.

Contents of a Municipal Charter

- **Mandatory provisions:**
 - Initiative and referendum of measures
 - Recall of officers
 - Provisions continuing, amending, or repealing existing ordinances
 - Prefatory synopsis

Contents of a Municipal Charter

- **Other examples of charter provisions**
 - Form of government – allocation of legislative and administrative powers
 - Qualifications, terms of office, number of councilmembers and method of election
 - Election procedures
 - Administrative organization
 - Boards and commissions
 - Procedures for passage of ordinances, resolutions and motions
 - Personnel, merit, or civil service system
 - Legal and judicial affairs
 - Budget control and financing
 - Municipal borrowing
 - Eminent domain

Contents of a Municipal Charter

A word of caution

- Borrowing provisions from other charters can be helpful and saves time.
- BUT
 - Be wary of using charters from Colorado municipalities that were adopted years ago
 - Guard against lifting unnecessary detail from other charters
 - Be aware that charter provisions borrowed from the municipalities may not be relevant or appropriate for your community

Considerations in Drafting a Charter

- Be aware of the tight timeline
- Research and organize resource information beforehand
- Use your staff or consultant extensively and effectively
- Obtain competent legal advice
- Provide adequate opportunity for citizen input before finalized decisions
- Charter commissions may adopt an organization similar to their existing organization
- Think long term

Considerations in Drafting a Charter

- Define which actions must be by ordinance as opposed to resolution or motion and the procedures applicable to enactment of ordinances. Make clear who votes and how many votes are necessary for the council to act
- Include fundamental and priority features, leaving other provisions to subsequent action by city council and staff. Leave the elected officials with sufficient flexibility to act and be responsive
- Cross-reference state statute where appropriate, such as municipal election procedures
- Financing provisions, such as municipal bonding and use of local improvement districts, are important

Considerations in Drafting a Charter

- Be careful about including unnecessary provisions sought by special interests
- A good process can facilitate drafting of a good charter and enhance chances for its approval by the citizens. Ask questions of each other and give respectful, thoughtful answers when asked a question
- Constructive debate can be healthy – remember the debate that was carried out at the Constitutional Convention in Philadelphia
- **Work as a team!**

Authority and Flexibility Afforded to Home Rule Municipalities

- Form of Government
 - City manager who answers to council, strong mayor - weak council, or strong council - weak mayor system
 - Clear authority to adopt the council/manager form of government
- Elected Officials
 - Clarification of powers for mayor, council, manager, other officers, and boards and commissions
 - Disqualifying circumstances, grounds and procedures for discipline, or removal from office
 - Minimum age requirements

Authority and Flexibility Afforded to Home Rule Municipalities

- Elective Offices
 - Number and types of offices, the date when newly elected officials take office, and provide flexibility for being elected at-large, by districts and redistricting
 - Modify or eliminate term limits for mayor and council
- Elections
 - Regular election dates and times other than the dates required by statute
 - Flexibility for special election dates
 - Procedures for initiative, referendum, and recall
 - Expand the right to vote in municipal elections
 - Expand certain citizen powers, like initiative, referendum, and recall

Authority and Flexibility Afforded to Home Rule Municipalities

- Procedures
 - Enactment of local ordinances to expedite consideration and effective dates, such as one-reading procedure for emergency ordinances in cities
 - Option to delegate decisions to administrative staff
 - Repeal or modify statutory provisions governing bidding and awarding of public projects and disposal of public property
 - Establish local zoning, subdivision and other land use procedures which are different from those applicable to statutory municipalities
 - Provide council procedures and bind elected officials to them

Authority and Flexibility Afforded to Home Rule Municipalities

- Finances
 - Collection and enforcement of local sales/use taxes
 - Broader or narrower sales and use tax base
 - Additional types of excise taxes: admissions, entertainment, tourism, and lodgers' taxes
 - Clarify, simplify, or otherwise revise procedures for budget and appropriation and municipal enterprises
 - Authorize refunds and exemptions not authorized by state law
 - Increase general obligation bond authority and streamline requirements for issuance of bonds
 - Facilitate formation of special improvement districts and expand purposes for which they can be formed
- **Home rule does not exempt municipalities from TABOR requirements.**

Authority and Flexibility Afforded to Home Rule Municipalities

- Miscellaneous Powers
 - Alternative procedures for management and operation of municipal utilities
 - Terms and conditions of municipal employment
 - Broaden municipal court jurisdiction
 - Provide additional tools for economic development
 - Clarify authority for or expand the types of services which the municipality can provide
 - Set forth more specific ethics and conflict of interest rules

Decisions To Be Made By The City Council or Town Board

- Size of the Charter Commission
 - If your municipal population is over 2,000, then the commission may be composed of 9 to 21 members (must be an odd-number)
 - If your municipal population is under 2,000, then the commission shall be composed of 9 members
- Date & time that the charter commission meets
 - Eligibility to serve on the charter commission shall extend to all registered electors of the municipality
 - The commission may employ a staff; consult and retain experts
- Calendar for placing a home rule initiative on the ballot

Growth in Home Rule Municipalities

- Most Colorado residents benefit from home rule
- Number of Colorado home rule cities and towns
 - 1940 – 10
 - 1960 – 22
 - 1980 – 56
 - 2000 – 80
 - 2020 – 103
- 93% of municipal residents in home rule cities/towns
- 69% of Colorado residents in home rule cities/towns

Resources at the League

- Matrix of Home Rule Charters (2017) publication
- Home Rule Handbook (2017) publication
- Copies of every home rule charter
- Sample educational materials to distribute to citizens

Questions

Contact:

Kevin Bommer, executive director

kbommer@cml.org

(303) 831-6411





AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article I	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
<p>Administration asks that the Home Rule Commission review and discuss Article I of the Home Rule Charter and take action:</p> <ul style="list-style-type: none"> • Actions that may be taken: <ul style="list-style-type: none"> • Move Approve Article I of the Home Rule Charter • Move Approve Article I of the Home Rule Charter with additional changes • Take no Action 		<ul style="list-style-type: none"> <input type="checkbox"/> Presentation ✓ <u>Discussion</u> ✓ <u>Approval</u> ✓ <u>Action Requested</u>
BRIEF SUMMARY		
<p>Included in this packet is Article I of the Home Rule Charter. This article reflects the following changes discussed at the previous December 7th Commission Meeting:</p> <ul style="list-style-type: none"> • Change from Town Board to Town Council • Change from Town Administrator to Town Manager • Change property to “real assets” • Definition of “Like Manner” <p>As the Commission approves Articles within this Home Rule Charter, Administration will provide an updated red-line version and an updated clean version at each following meeting.</p>		
ADMINISTRATION ANALYSIS AND RECOMMENDATION		
<p>Administration recommends that the Home Rule Commissioners review and discuss Article I of the Home Rule Charter and take action by approving Article I of the Home Rule Charter.</p>		
MATERIALS SUBMITTED		
<p>The following materials were submitted and included in this packet:</p> <ul style="list-style-type: none"> • Redline Version Home Rule Charter Article I • Proposed Home Rule Charter Article I 		

Article I
General Provisions

- 1.01 Name and Boundaries. The municipal corporation heretofore existing as the Town of Severance, Weld County, State of Colorado, shall remain and continue a body politic and corporate and under this Charter be known as the Town of Severance, with boundaries the same as presently established, until changed in a manner authorized by law.
- 1.02 Form of Government. The municipal government established by this Charter shall be a Council/Manager form of government.
- 1.03 Authority.
- (1) The Town shall have all the authority of local self-government and home rule and all authority possible for a municipality to have under the Constitution and laws of the State of Colorado.
 - (2) The enumeration of any particular authority in this Charter shall in no way be deemed to limit or exclude the exercise of any authority.
 - (3) All authority shall be exercised in the manner set forth in this Charter or, if not provided for in this Charter, in such manner as provided for by ordinance, resolution, or state statute.
- 1.04 Rights and Liabilities. By the name of the Town of Severance, a municipal corporation, the Town shall have the following rights and liabilities:
- (1) The right to perpetual succession.
 - (2) The right to own, possess, and hold all property, real and personal, heretofore owned, possessed, and held by the Town, and to manage and dispose of all trusts in any way connected therewith.
 - (3) The right to purchase, lease, receive, hold, and enjoy, or sell and dispose of real and personal property. The right to purchase or otherwise acquire property on which there are delinquent taxes or special assessments and to dispose of them in like manner as any other property.
 - (4) The right to succeed to all rights and liabilities of the Town.
 - (5) The right to acquire all benefits of the Town and to assume and pay all bonds, obligations and indebtedness of the Town.
 - (6) The right to sue and defend, plead and be impleaded in all courts and places and in all matters and proceedings.

(7) The right to purchase, lease, receive, hold, and enjoy, or sell and dispose of real and personal property; provided, however, that disposal of land designated as a park or open space area shall require prior approval by the Town's registered electors, subject to the following limitations:

- (a) "Disposal" means divesting the Town of the full fee interest in the land;
- (b) Disposal of less than one-half (½) acre of land, even if designated as a park or open space area, shall not require voter approval provided that the Council makes an express finding that use of the land after disposal will be for a public purpose; and
- (c) The Town may by ordinance further regulate and protect the designation, conveyance and disposition of Town land in use as parks or open space areas.

(8) The right to establish municipal water works, wastewater treatment works, water and sewer systems, internet services, and any other utility systems.

(9) The right to adopt, have, and use a common seal and alter the same.

(10) The right to adopt ordinances and resolutions on all matters unless otherwise prohibited by this Charter or by laws applicable to home rule municipal corporations in the State of Colorado.

(11) The right to have all rights, powers, and liabilities applicable to Colorado home rule municipal corporations as set forth in Article XX of the Colorado Constitution and Title 31, Colorado Revised Statutes, and other applicable statutes, as amended.

Commented [KMS1]: I would recommend removal of this section or at least further discussion.

Article I
General Provisions

- 1.01 Name and Boundaries. The municipal corporation heretofore existing as the Town of Severance, Weld County, State of Colorado, shall remain and continue a body politic and corporate and under this Charter be known as the Town of Severance, with boundaries the same as presently established, until changed in a manner authorized by law.
- 1.02 Form of Government. The municipal government established by this Charter shall be a Council/Manager form of government.
- 1.03 Authority.
- (1) The Town shall have all the authority of local self-government and home rule and all authority possible for a municipality to have under the Constitution and laws of the State of Colorado.
 - (2) The enumeration of any particular authority in this Charter shall in no way be deemed to limit or exclude the exercise of any authority.
 - (3) All authority shall be exercised in the manner set forth in this Charter or, if not provided for in this Charter, in such manner as provided for by ordinance, resolution, or state statute.
- 1.04 Rights and Liabilities. By the name of the Town of Severance, a municipal corporation, the Town shall have the following rights and liabilities:
- (1) The right to perpetual succession.
 - (2) The right to own, possess, and hold all property, real and personal, heretofore owned, possessed, and held by the Town, and to manage and dispose of all trusts in any way connected therewith.
 - (3) The right to purchase, lease, receive, hold, and enjoy, or sell and dispose of real and personal property.
 - (4) The right to succeed to all rights and liabilities of the Town.
 - (5) The right to acquire all benefits of the Town and to assume and pay all bonds, obligations and indebtedness of the Town.
 - (6) The right to sue and defend, plead and be impleaded in all courts and places and in all matters and proceedings.

- (7) The right to establish municipal water works, wastewater treatment works, water and sewer systems, internet services, and any other utility systems.
- (8) The right to adopt, have, and use a common seal and alter the same.
- (9) The right to adopt ordinances and resolutions on all matters unless otherwise prohibited by this Charter or by laws applicable to home rule municipal corporations in the State of Colorado.
- (10) The right to have all rights, powers, and liabilities applicable to Colorado home rule municipal corporations as set forth in Article XX of the Colorado Constitution and Title 31, Colorado Revised Statutes, and other applicable statutes, as amended.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article II	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
<p>Administration asks that the Home Rule Commission review and discuss Article II of the Home Rule Charter and take action:</p> <ul style="list-style-type: none"> • Actions that may be taken: <ul style="list-style-type: none"> • Move Approve Article II of the Home Rule Charter • Move Approve Article II of the Home Rule Charter with additional changes • Take no Action 	<ul style="list-style-type: none"> <input type="checkbox"/> Presentation ✓ <u>Discussion</u> ✓ <u>Approval</u> ✓ <u>Action Requested</u> 	
BRIEF SUMMARY		
<p>Included in this packet is Article II of the Home Rule Charter. This article reflects the following changes discussed at the previous December 7th Commission Meeting:</p> <ul style="list-style-type: none"> • Municipal elections changed from April to November • Elections will occur every odd year • First Election will occur November 2023 <p>As the Commission approves Articles within this Home Rule Charter, Administration will provide an updated red-line version and an updated clean version at each following meeting.</p>		
ADMINISTRATION ANALYSIS AND RECOMMENDATION		
<p>Administration recommends that the Home Rule Commissioners review and discuss Article II of the Home Rule Charter and take action by approving Article II of the Home Rule Charter.</p>		
MATERIALS SUBMITTED		
<p>The following materials were submitted and included in this packet:</p> <ul style="list-style-type: none"> • Redline Version Home Rule Charter Article II • Proposed Home Rule Charter Article II 		

**Article II
Elections**

2.01 Election Laws. Town elections shall be governed by the Colorado Municipal Election Laws, C.R.S. § 31-10-101 et seq., as amended, except as otherwise provided in this Charter or by ordinance hereafter enacted.

2.02 Types of Elections.

(1) Regular municipal elections shall be held on the Tuesday following the first Monday in November of 2023~~1~~ and in each odd-numbered year thereafter.

Commented [NW1]: Is this allowed?

(2) The Mayor and each Council Member shall take office at the first regular meeting of the Council following the date on which the election has been finally certified, and shall continue in office until their successors have been elected and take office ~~or a vacancy occurs.~~

Commented [KMS2R1]: Yes, statutory cities have odd-year elections and many home rules do. Either is fine. The advantage to November elections is of course that they are coordinated. Remember if you shift this, you will need to plan for changes in terms which is not permitted during the term of an elected official. You may, if you have not already, to map out when the first odd-numbered year election could occur.

(3) Special Town elections shall be held in accordance with the provisions of this Charter and the Colorado Municipal Election Laws, C.R.S. § 31-10-101 et seq., as amended, except as otherwise provided in this Charter or by ordinance hereafter enacted. Any special Town election may be called by resolution of the Council not less than thirty (30) days in advance of such election or when required by this Charter or by statute. The resolution calling a special Town election shall set forth the purposes of such election.

Commented [KMS3]: Considering taking office in January to cover certification and recalls.

Commented [KMS4]: It is highly unlikely that 30 days is sufficient to call an election.

2.03 Nonpartisan Elections. All municipal elections shall be nonpartisan.

2.04 Recall. Any elected official of the Town may be recalled at any time after the completion of six (6) months in office by the electors entitled to vote for a successor of such official, as set forth in the Colorado Constitution, C.R.S. § 31-4- 501, *et seq.*, as amended, and Section 11.12 of this Charter.

Article II Elections

- 2.01 Election Laws. Town elections shall be governed by the Colorado Municipal Election Laws, C.R.S. § 31-10-101 *et seq.*, as amended, except as otherwise provided in this Charter or by ordinance hereafter enacted.
- 2.02 Types of Elections.
- (1) Regular municipal elections shall be held on the Tuesday following the first Monday in November of 2023 and in each odd-numbered year thereafter.
 - (2) The Mayor and each Council Member shall take office at the first regular meeting in January following an election and shall continue in office until their successors have been elected and take office.
 - (3) Special Town elections shall be held in accordance with the provisions of this Charter and the Colorado Municipal Election Laws, C.R.S. § 31-10-101 *et seq.*, as amended, except as otherwise provided in this Charter or by ordinance hereafter enacted. Any special Town election may be called by resolution of the Council not less than sixty (60) days in advance of such election or when required by this Charter or by statute. The resolution calling a special Town election shall set forth the purposes of such election.
- 2.03 Nonpartisan Elections. All municipal elections shall be nonpartisan.
- 2.04 Recall. Any elected official of the Town may be recalled at any time after the completion of six (6) months in office by the electors entitled to vote for a successor of such official, as set forth in the Colorado Constitution, C.R.S. § 31-4- 501, *et seq.*, as amended, and Section 11.12 of this Charter.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article III	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
Administration asks that the Home Rule Commission review and continue to discuss Article III of the draft Home Rule Charter and provide staff with proposed changes for adoption.	<input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Approval <input type="checkbox"/> Action Requested	
BRIEF SUMMARY		
<p>Included in this packet is Article III of the draft Home Rule Charter. This article was created by the Town of Eagle Home Rule Commission, includes no changes by Administration, and Administration recommends that the Commission focus on the following topics and any additional topics the Commission sees fit to discuss:</p> <ul style="list-style-type: none"> • Qualifications to Serves (Age & Felony Restrictions) • Review Voting Section 3.05(2) and 3.05(4) • Review Section Code of Conduct and Ethics: 3.06 • Review Section 3.09: Mayor Pro-Tem <p>As the Commission approves Articles within this Home Rule Charter, Administration will provide an updated red-line version and an updated clean version at each following meeting.</p>		
ADMINISTRATION ANALYSIS AND RECOMMENDATION		
Administration recommends that the Home Rule Commissioners provide staff with proposed changes to Article III of the draft Home Rule Charter for adoption at January 4 th HRC Meeting.		
MATERIALS SUBMITTED		
<p>The following materials were submitted and included in this packet:</p> <ul style="list-style-type: none"> • Home Rule Charter Article III 		

Article III
Town Council

3.01 Town Council.

- (1) The Council shall include a Mayor and six (6) Council Members. The positions of Mayor and Council Member are separate offices.
- (2) The Mayor and all Council Members shall be elected at large by the registered electors of the Town.
- (3) The Mayor and all Council Members shall be elected to serve four (4) year terms unless a two (2) year term is required to restore staggered positions on the Council. In such case, the four (4) year term(s) shall go to the candidate(s) with the highest number of votes, and the two (2) year term(s) shall go to the candidate(s) with the next highest number of votes.
- (4) No elected Mayor or Council Member shall serve more than two (2) consecutive terms in one office.
- (5) Terms shall not be considered consecutive if they are at least two (2) years apart or are for separate offices. For the purposes of this limitation, terms to which an individual is appointed shall not count as a term.

3.02 Authority of the Council.

- (1) The Council shall have the following authority:
 - (a) To enact and provide for the enforcement of all ordinances necessary to protect life, health, safety, welfare and property;
 - (b) To declare, prevent and summarily abate and remove nuisances in accordance with due process;
 - (c) To preserve and enforce good government, general welfare, order and security of the Town and the inhabitants thereof;
 - (d) To enforce ordinances and regulations by fines or imprisonment as permitted by state law, or by both fines and imprisonment for each and every offense; and
 - (e) To delegate to boards and commissions, within the limitations of the Constitution and this Charter, such functions and authority of the Town as the Council deems proper and advisable.
- (2) The Council shall deal with the administrative service solely and directly through the Town Manager. Neither the Mayor nor any Council Member shall dictate

the appointment of or direct or interfere with the work of any employee under the Town Manager.

(3) The Council shall be the legislative and governing body of the Town and shall exercise, except as otherwise provided in this Charter, all powers conferred upon or possessed by the Town.

(4) In the case of a vacancy on the Council, the Council shall declare a vacancy according to standards set forth by ordinance or by C.R.S. § 31-4-303, as amended. The Council shall adopt by resolution procedures for filling any such vacancy. Council may determine whether to appoint an individual to the vacancy until the next regular election, unless Council determines to fill the vacancy by special election.

Commented [KMS1]: Consider deleting.

3.03 Qualifications to Serve on Elected Council and Appointed Boards or Commissions.

Commented [NW2]: Can you limit to 21 and above

(1) No person shall be eligible to be elected or appointed to the Council, or to remain seated on the Council, unless they are:

Commented [KMS3]: I would give some thoughts to this. Council/Board can set these by ordinance and they may want some flexibility. It is also unusual to have such hefty requirements for appointed officials.

- (a) A citizen of the United States of America;
- (b) A registered elector of the Town;
- (c) A resident of the Town for a period of no less than twelve (12) consecutive months preceding the election; and

Currently eligible to vote in Colorado general elections.

Commented [NW4]: Can you vote if you have a felony?

- (d) Must not be convicted of a felony.

Commented [KMS5R4]: Yes, if you have been released.

(2) No person who is an employee of the Town may serve on the Council. Any Town employee elected to the Council shall be deemed to have resigned as an employee on the date of taking office on the Council.

Commented [KMS6]: This is repetitive – as someone who is a registered elector of the Town is eligible to vote in Colorado, unless the Town is going to change the qualifications of eligible electors for the Town.

- (a) No person may be a candidate for both Mayor and Council Member at the same election.
- (b) A person may be a candidate for the office of Mayor while serving as a Council Member and, if not elected Mayor, may serve out their term as a Council Member.

(3) The Town Clerk shall be the judge of all qualifications for candidates for Council, except as otherwise provided by ordinance.

3.04 Council Meetings.

(1) The Council shall meet regularly at least once each month, unless increased by ordinance, at a day and hour and place fixed by the Council.

(2) Four (4) members of the Council shall constitute a quorum, but, in the absence of a quorum, a lesser number may continue any meeting or hearing to a later time or date, and in the absence of all members, the Town Clerk may adjourn any meeting.

(3) All regular and special meetings of the Council shall be open to the public, and citizens shall have a reasonable opportunity to be heard. Written minutes of the proceedings of each meeting shall be kept by the Town Clerk and signed by the Mayor.

Commented [KMS7]: I would recommend perhaps discussing this – It is already required under COML. It could be interpreted to be broader than COML and requiring minutes of work sessions and the Town may not want to do that.

3.05 Voting.

(1) Votes by each Council Member and the Mayor for and against shall be taken upon the passage of all ordinances and resolutions and entered upon the minutes of the Council proceedings.

(2) To be adopted, every non-emergency ordinance shall require the affirmative vote of a majority of the Council present, and every emergency ordinance shall require the affirmative vote of two-thirds (2/3) of the Council present.

Commented [KMS8]: Could be a minority of the Council.

(3) To be adopted, every resolution and motion shall require the affirmative vote of a majority of the Council present.

(4) Every Council Member present and the Mayor if present shall vote on every matter unless the Council Member or the Mayor is excused from voting due to a conflict of interest as provided in Section 3.06 below. If a Council Member or the Mayor refuses to vote without being excused, the Town Clerk shall consider the refusal as an affirmative vote.

3.06 Code of Conduct and Ethics. The Council shall adopt by resolution a Code of Conduct and Ethics, which shall address Council conflicts of interest and behavior. No Council Member or Mayor shall vote on any question in which they have a conflict of interest. A conflict of interest occurs when a Council Member or Mayor has a substantial personal or financial interest in the outcome of the question, whether direct or indirect, or on any questions concerning their own conduct, as may be further defined in the adopted Code of Conduct and Ethics. The adopted Code of Conduct and Ethics shall specify penalties for violations of its provisions as well as for violations of this Charter.

Commented [KMS9]: Does the Town really want to dictate this in the Charter?

3.07 Compensation of Mayor and Council Members.

(1) The Mayor and Council Members shall receive such compensation as the Council shall by ordinance prescribe.

(2) The Council shall neither increase nor decrease the compensation of the Mayor or any Council Member during their term of office.

(3) The Mayor and Council Members may, upon order of the Council, be paid such necessary *bona fide* expenses incurred in service on behalf of the Town as are authorized by the Council.

~~3.08 Oath of Office. Before entering upon the duties of the office of Mayor or Council Member, every person shall take, subscribe before, and file with the Town Clerk the following an oath or affirmation:~~

~~I, (name), swear (or affirm), that I will support the Constitution of the United States, the Constitution of the State of Colorado, the Charter and the ordinances of this Town, and will faithfully perform the duties of my office.~~

3.093.08 Mayor Pro Tem and Acting Mayor.

(1) A Mayor Pro Tem shall be elected by the Council from its own membership at the first Council meeting following the final certification of each biennial election. The Mayor Pro Tem shall serve until the Council meeting following the final certification of the next regular Town election, and shall act as Mayor during the absence of the Mayor.

(2) In the event of absence of both the Mayor and the Mayor Pro Tem, the Council shall designate another Council Member by majority vote to serve as Acting Mayor during such absence.

(3) Any Mayor Pro Tem or Acting Mayor, while serving as such, shall retain all authority granted herein to Council Members and may, at the conclusion of their service as Mayor Pro Tem or Acting Mayor, serve out the remainder of their original term.

3.10 Special Meetings.

(1) Special meetings of the Council shall be called by the Town Clerk on the verbal request of a majority of the entire Council or the Mayor, on at least twenty- four (24) hours' notice to each Council Member and the Mayor.

(2) Written notices of any special meeting and the topic of any special meeting shall be posted consistent with the posting of notice for regular Council meetings. No business shall be transacted at any special meeting of the Council unless such business has been stated in the notice of such meeting.

3.11 Executive Sessions.

(1) Any Council meeting may be recessed into an executive session by the affirmative vote of two-thirds (2/3) of the quorum present and may be closed to the

Commented [KMS10]: This is set by statute now presumably as a matter of statewide concern. The statutory oath may be added to but the basics must be included.

Commented [KMS11]: One thing to think about is when a newly elected Council will take their seats. Most municipalities that have November elections do not seat a new Council until January. If the Town wants to go that way, I would recommend this be revised to the first meeting in January following an election.

public for the purpose of considering any of the following matters:

- (a) The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest.
- (b) Conferences with an attorney for the Town for the purposes of receiving legal advice on specific legal questions.
- (c) Matters required to be kept confidential by federal or state law or rules and regulations. The Council shall announce the specific citation of the statutes or rules that are the basis for such confidentiality before holding the executive session.
- (d) Specialized details of security arrangements or investigations, including defenses against terrorism, both domestic and foreign, and including where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.
- (e) Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.
- (f) Personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting.
- (g) Consideration of any documents protected by the mandatory nondisclosure provisions of the Colorado Open Records Act, C.R.S. § 24- 72- 200.1, *et seq.*, as amended.
- (h) Any other matter authorized by the Colorado Open Meetings Law, C.R.S. § 24-6-401, *et seq.*, as amended.

(2) The general subject matter of every executive session shall be stated in the motion calling for the session, unless doing so would compromise the purpose of the executive session. No formal action, no final policy decision, no rule, regulation, resolution, or ordinance, and no action approving a contract or calling for the payment of money shall be adopted or approved at any executive session.

~~(3) Only the Mayor and members of the Town Council shall attend executive sessions provided; however, that other persons may be invited to attend executive sessions by the Mayor and Council. The Mayor, Council Members, the Town Manager, and the Town Attorney may attend executive sessions. Other persons may be invited to attend an executive session upon the affirmative vote of a majority of the Council~~

Commented [KMS12]: We should discuss whether to include this.

Commented [KMS13]: This is my suggestion to simplify this section. Only the Mayor and members of Council have a right to attend an ex. session – everyone else is informally invited.

~~present, and the Town Manager or Town Attorney may be excluded upon the affirmative vote of a majority of the Council present.~~

~~(4)(3)~~ The provisions of this Section are specifically intended to supersede any conflicting provisions of Colorado statutes governing open meetings and executive sessions.

From: [Frank Baszler](#)
To: [Home Rule Charter Commission](#)
Subject: Supplemental info for last nights conversation
Date: Tuesday, December 8, 2020 2:32:38 PM

Folks,

We wanted to discuss age and felonies for holding office.

The state age for holding office is 25 and 30 for governor. There appears to be a trend for 18 for school boards / transportation boards. Many small communities do not have an age and use the rule of must be able to vote. Many larger communities have added an age (eg. Denver is 25, Ft Collins 21, Weld County 21 etc.).

<https://www.sos.state.co.us/pubs/elections/Candidates/qualifications.html>

For felonies, there appear to be no limits for office holders (Fed or State) that I could find. I have not yet found a limitation other than the voting "trick" to block. Thus we would be breaking new ground to call it out directly unless we find another reference. Normally when you see a dodging move like this in legal language there might be an underlying reason. With a lack of data/prior works, an attorney is needed on this point.

Loveland added this verbiage:

No person who has been convicted of embezzlement of public funds, bribery, perjury, solicitation of bribery, subornation of perjury, or a willful violation of this Charter, shall be nominated or elected as Mayor or Council member.

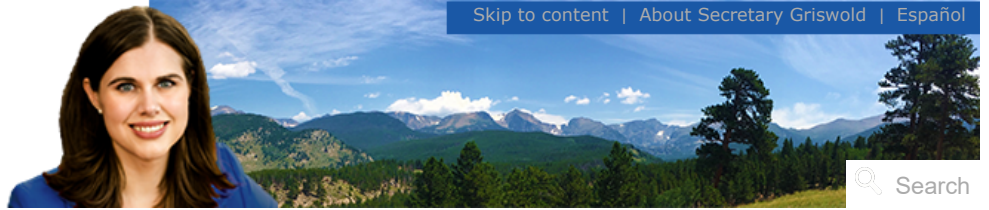
So not as broad as felony, but more limited and includes misdemeanors and just willful violation. Again, you can see the intent of blocking criminals and then the backing away to make it legal.

At the Federal level the discussion around why criminality is not a limiter is that some laws and thus crimes have been politically motivated. Note all of our founding fathers were criminals for rebelling against the king. Their thinking was that the voter is the authority of who is in office ([Federalist 57](https://guides.loc.gov/federalist-papers/text-51-60), <https://guides.loc.gov/federalist-papers/text-51-60>) limited only by age and residence. Typically in post civil war times you can see politicization of law around alcohol and drugs (eg. marijuana as a schedule 1 drug (heavy black use, felony) verses cocaine/meth as a schedule 2 drug (heavy white use, misdemeanor)). But in the past have also been related to race in preventing certain people from participating in government (Jim Crow laws of separate but equal, which criminalized race based activities). Some people argue that this is still a political factor and is part of a much larger debate happening in Florida, ~2020 election, were people who have fully served their time/punishment have a lifetime ban on voting (removed by popular vote of the people of Florida but tied up by the current government for

political goals). A similar argument of politicization of law could be made in Colorado for the continuing criminalization of firearms (eg. possession of a >10 round magazine). I suspect much of these arguments will already have been made in court ruling and thus we will see the attorney just prevent a direct reference to "felonies".

-Frank

Do NOT respond to this email. Bring up the topic in our next meeting so it can be properly noticed and discussed. Staff will tack this info to our next packet.


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Candidate Qualifications

Federal

Office	Age	State Residence	District Residence	US Citizen	Length of Term	Number of Terms
President	35 [1]		n/a	Natural born [1]	4 years [2]	2 terms [3]
US Representative	25	Yes	No	7 years [4]	2 years	no limit [5]
US Senator	30	Yes	n/a	9 years [6]	6 years	no limit [5]

State

Office	Age	State Residence	District Residence	US Citizen	Length of Term	Number of Terms
Attorney General [9]	25 [7]	2 years [7]	n/a	Yes [7]	4 years [8]	2 terms
CU Regent	18	Yes	Yes	Yes	6 years	2 terms
District Attorney [10]	18	Yes	Yes [12]	Yes	4 years	varies
Governor	30 [7]	2 years [7]	n/a	Yes [7]	4 years [8]	2 terms
Lt. Governor	30 [7]	2 years [7]	n/a	Yes [7]	4 years [8]	2 terms
RTD Board of Directors	18	Yes	Yes	Yes	4 years	2 terms
Secretary of State	25 [7]	2 years [7]	n/a	Yes [7]	4 years [8]	2 terms
State Board of Education	18	Yes	Yes	Yes	6 years	2 terms
State Representative	25 [11]	1 year [11]	12 months [11]	Yes	2 years	4 terms
State Senator	25 [11]	1 year [11]	12 months [11]	Yes	4 years	2 terms
State Treasurer	25 [7]	2 years [7]	n/a	Yes [7]	4 years [8]	2 terms

County & Municipal

Contact your county clerk or municipal office for candidate qualifications.

[\[1\]](#) Article II, Section 1(5), U.S. Constitution

[\[2\]](#) Article II, Section 1(1), U.S. Constitution

[\[3\]](#) Amendment XXII, Section 1, U.S. Constitution

[\[4\]](#) Article I, Section 2, U.S. Constitution

[\[5\]](#) House candidates may voluntarily limit service to 3 terms; Senate candidates may voluntarily limit service to 2 terms (Article XVIII, Section 12a, Colorado Constitution)

[\[6\]](#) Article I, Section 3, U.S. Constitution

[\[7\]](#) Article IV, Section 4, Colorado Constitution

[\[8\]](#) Article IV, Section 1, Colorado Constitution

[\[9\]](#) Must be a licensed attorney of the supreme court of the state in good standing.

[\[10\]](#) Must have been licensed to practice law in this state for the last 5 years.

[\[11\]](#) Article V, Section 4, Colorado Constitution

[\[12\]](#) Article VI, Sections 11 & 13



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article IV	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
Administration asks that the Home Rule Commission review and discuss Article IV of the draft Home Rule Charter and provide staff with proposed changes for adoption.	<input type="checkbox"/> Presentation <input checked="" type="checkbox"/> <u>Discussion</u> <input type="checkbox"/> Approval <input type="checkbox"/> Action Requested	
BRIEF SUMMARY		
<p>Included in this packet is Article IV of the draft Home Rule Charter. This article was created by the Town of Eagle Home Rule Commission, includes no changes by Administration, and Administration recommends that the Commission focus on the following topics and any additional topics the Commission sees fit to discuss:</p> <ul style="list-style-type: none"> • Mayor <ul style="list-style-type: none"> ○ Section 4.01(2): Currently by vote of the Board, Administration is given the ability to sign for land purchases • Town Manager <ul style="list-style-type: none"> ○ Section 4.02(1): Currently the Manager’s term length and compensation is decided by contract ○ Section 4.02(4): Administration would recommend the following: The Town Manager may appoint the Assistant Town Manager, or a Town department head to function in their capacity during short absences. • Town Attorney <ul style="list-style-type: none"> ○ Section 4.03(1): Currently the Attorney’s term length and compensation is decided by contract • Municipal Judge <ul style="list-style-type: none"> ○ Section 4.03(1): Currently the Judge’s term length and compensation is decided by contract <p>As the Commission approves Articles within this Home Rule Charter, Administration will provide an updated red-line version and an updated clean version at each following meeting.</p>		
ADMINISTRATION ANALYSIS AND RECOMMENDATION		
Administration recommends that the Home Rule Commissioners provide staff with proposed changes to Article IV of the draft Home Rule Charter for adoption at the January 4 th HRC Meeting.		
MATERIALS SUBMITTED		
<p>The following materials were submitted and included in this packet:</p> <ul style="list-style-type: none"> • Home Rule Charter Article IV 		

Article IV
Town Administration, Appointed Officials and Town Departments

4.01 Mayor. The Mayor shall be the presiding officer of the Council and the recognized head of the Town government for all legal and ceremonial purposes. The Mayor, or anyone acting as Mayor as provided for in Section 3.09 of this Charter, shall have the following duties, authorities, and responsibilities:

(1) To vote in the same manner as a Council Member without veto power upon any question;

(2) To sign all contracts binding the Town, all conveyances of interests in land by the Town, all ordinances and resolutions, and any other documents requiring their signature except as may be delegated by ordinance to the Town Manager or as otherwise provided by ordinance and attested by the Town Clerk under the seal of the Town; and

(3) To have such other authority as may be conferred upon the Mayor by the Council so long as that grant of authority is not in conflict with the provisions of this Charter.

(4) In case of emergency, the Mayor shall assume the authority to execute any action necessary for the protection of life and property.

(a) Such authority shall include without limitation establishing regulations governing conduct and activities related to the cause of the emergency, and if the emergency situation continues, the Mayor shall convene the Council which may take such action as it deems necessary.

(b) Any unilateral action taken by the Mayor during an emergency shall be temporary in nature and duration and shall be effective only until the Council is convened to ratify the action.

(5) In the event it becomes necessary, the line of succession provided in this Charter shall be followed. The Council shall have the authority to provide for the continuity of government of the Town in the event of disaster. Such authority shall be employed in a manner that will preserve representative government to the Town and that will provide an orderly line of succession of officers, notwithstanding the provisions of this Charter. Such succession shall commence with the Mayor and the Mayor Pro Tem, and shall then revert to Council Members, then through an orderly line of succession of the administrative department heads.

4.02 Town Manager. The Town Manager shall be the chief executive officer of the Town and shall serve at the will of the Council.

(1) The Council, by a majority vote of those then in office, shall appoint a Town Manager without a definite term and at compensation fixed by resolution of the Council.

(2) The Town Manager shall be accountable to the Council and shall perform such duties as provided by ordinance or resolution, or at the direction of the Council, so long as such direction is not contrary to this Charter, state or federal law or the ordinances of the Town.

(3) The Town Manager may only delegate to others the authority and duties prescribed to their position to the extent allowed by ordinance or resolution.

(4) The Town Manager may appoint a Town department head to function in their capacity during short absences.

(5) The Town Manager may hire staff as such are provided for in the Town's budget.

(6) The Town Manager shall prepare an annual budget and submit it to the Council.

4.03 Town Attorney. The Town Attorney shall be an attorney licensed to practice law in the State of Colorado and shall be appointed to the position by a majority vote of the Council then in office.

(1) The Town Attorney shall serve at the will of the Council without a definite term at compensation fixed by resolution of the Council.

(2) The Town Attorney shall be responsible to the Council and shall perform such duties as provided by ordinance.

4.04 Municipal Judge. The Municipal Judge shall be an attorney licensed to practice law in the State of Colorado and shall be appointed to the position by a majority vote of the Council then in office.

(1) The Municipal Judge shall serve at the will of the Council without a definite term at compensation fixed by resolution of the Council.

(2) The Municipal Judge shall be responsible to the Council and shall perform such duties as provided by ordinance.

4.05 Town Clerk. Town Clerk shall be hired by the Town Manager as an employee of the Town. The Town Clerk or designee shall attend all meetings of the Council, shall keep a permanent record of its proceedings, and shall have the following other duties and responsibilities:

- (1) To be custodian of the Town Seal, affix it to all documents and instruments requiring the seal, and attest to the same.
- (2) To be custodian of all papers, documents and records pertaining to the Town, the custody of which is not otherwise provided for.
- (3) To certify by their signature all ordinances and resolutions enacted or passed by the Council.
- (4) To provide and maintain in the Town Clerk's office a supply of forms for all petitions required to be filed for any purpose by the provisions of this Charter or by ordinances enacted hereunder.
- (5) To review the sufficiency of all petitions required to be filed for any purpose by the provisions of this Charter or by ordinances enacted hereunder. Yet, nothing contained herein shall require the Town Clerk to advise any petitioner as to how petitions shall be completed prior to their submittal to the Town Clerk.
- (6) To administer oaths of office.
- (7) To perform such other duties as may be prescribed by this Charter or by the Town Manager.

4.06 Town Departments.

- (1) The Council may by ordinance create, consolidate or dissolve any Town department.
- (2) All departments and department heads of the Town, except as otherwise provided in this Charter, shall be under the supervision and control of the Town Manager.
- (3) All department heads hired after the effective date of this Charter shall be hired by the Town Manager and shall be considered, at all times, at-will employees of the Town. The provisions of this Section are specifically intended to supersede conflicting state law on this matter, including C.R.S. § 31-4-307.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article V	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
Administration asks that the Home Rule Commission review and discuss Article V of the draft Home Rule Charter and provide staff with proposed changes for adoption.	<input type="checkbox"/> Presentation <input checked="" type="checkbox"/> <u>Discussion</u> <input type="checkbox"/> Approval <input type="checkbox"/> Action Requested	
BRIEF SUMMARY		
<p>Included in this packet is Article V of the draft Home Rule Charter. This article was created by the Town of Eagle Home Rule Commission, includes no changes by Administration, and Administration recommends that the Commission focus on any topics the Commission sees fit to discuss.</p> <p>As the Commission approves Articles within this Home Rule Charter, Administration will provide an updated red-line version and an updated clean version at each following meeting.</p>		
ADMINISTRATION ANALYSIS AND RECOMMENDATION		
Administration recommends that the Home Rule Commissioners provide staff with proposed changes to Article V of the draft Home Rule Charter for adoption at the January 4 th HRC Meeting.		
MATERIALS SUBMITTED		
<p>The following materials were submitted and included in this packet:</p> <ul style="list-style-type: none"> • Home Rule Charter Article V 		

Article V
Boards and Commissions

5.01 Existing Boards and Commissions. All boards and commissions existing at the time this Charter is adopted shall continue as established by ordinance, except as otherwise provided by this Charter or subsequent ordinance.

5.02 Right to Establish, Amend and Abolish.

(1) The Council may create any boards or commissions, including advisory and appeal boards, provided that no such board or commission shall have authority to perform functions or duties otherwise assigned in this Charter or to interfere with any function or duty otherwise assigned in this Charter. Unless otherwise required by law or this Charter, all boards and commissions shall be created by ordinance, which shall prescribe the duties delegated by the Council and the qualification of members.

(2) Each board and commission shall elect its own chair and vice-chair from among its members. Each board and commission shall operate in accordance with its own rules of procedure, except as otherwise directed by the Council. All board, and commission meetings shall be open to the public, and copies of all records and minutes of all meetings shall be kept and placed in the office of the Town Clerk for public inspection. Reports shall be made to the Council as the Council shall require.

(3) The Council may increase, reduce or change by ordinance any or all of the duties and procedures of any board or commission existing at the time of the adoption of this Charter or as created by ordinance thereafter.

(4) Any board or commission that is not required by statute or this Charter may be abolished by the Council at any time.

(5) Terms and conditions of appointment and composition of all boards and commissions shall be determined by ordinance, except that appointment of a member to any board or commission shall require a majority vote of the Council, and removal of any member from a board or commission shall require a two-thirds (2/3) affirmative vote by the entire Council and, in no case, fewer than five (5) affirmative votes for removal, following notice and an opportunity to be heard.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article VI	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
Administration asks that the Home Rule Commission review and discuss Article VI of the draft Home Rule Charter and provide staff with proposed changes for adoption.	<input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Approval <input type="checkbox"/> Action Requested	
BRIEF SUMMARY		
<p>Included in this packet is Article VI of the draft Home Rule Charter. This article was created by the Town of Eagle Home Rule Commission, includes no changes by Administration, and Administration recommends that the Commission focus on the following topics and any additional topics the Commission sees fit to discuss:</p> <ul style="list-style-type: none"> • Adoption Procedure for Ordinance <ul style="list-style-type: none"> ○ Section 6.03 (1): Should Ordinances be required to have one or two reading before adoption ○ Section 6.03 (5): Should Ordinances take effect in 10 days (Currently it is 30 days) <p>As the Commission approves Articles within this Home Rule Charter, Administration will provide an updated red-line version and an updated clean version at each following meeting.</p>		
ADMINISTRATION ANALYSIS AND RECOMMENDATION		
Administration recommends that the Home Rule Commissioners provide staff with proposed changes to Article VI of the draft Home Rule Charter for adoption at the January 4 th HRC Meeting.		
MATERIALS SUBMITTED		
<p>The following materials were submitted and included in this packet:</p> <ul style="list-style-type: none"> • Home Rule Charter Article VI 		

Article VI Ordinances

- 6.01 Action by Ordinance Required. In addition to such acts of the Council that are required by other provisions of this Charter to be by ordinance, every act creating indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property shall be by ordinance. However, this Section shall not apply to the budget adoption or other appropriations as defined in Section 8.05 of this Charter.
- 6.02 Form of Ordinance. Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be: NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SEVERANCE, COLORADO. Every ordinance introduced shall be deemed to contain a severability clause, whether stated therein or not.
- 6.03 Adoption Procedure for Ordinances. With the exception of emergency ordinances, the following procedure shall be followed in adopting any ordinance:
- (1) The ordinance shall be introduced at a regular or special meeting of the Council and read by title.
 - (2) If required by law, the Council shall conduct a public hearing on the ordinance.
 - (3) After the public hearing, if applicable, and any discussion or deliberation, the Council shall vote to amend, adopt, or reject the ordinance, or take other action as it deems appropriate.
 - (4) If the ordinance is adopted by the Council, either as presented or as amended, it shall be published and available for public inspection.
 - (5) Each ordinance shall be effective ten (10) days after publication or at such later date as specified in the ordinance.
 - (6) The method of official Town publication of ordinances shall be set by ordinance.
 - (7) Each ordinance shall be signed by the Mayor and attested to by the Town Clerk, and affidavits of publication shall be retained with the ordinance in the Town's records.
- 6.04 Emergency Ordinances.
- (1) The Council may adopt an emergency ordinance if necessary for the immediate preservation of public property, health, welfare, peace, or safety.

Determination by the Council as to the existence of an emergency shall be final and conclusive.

- (2) Emergency ordinances shall also meet the following criteria:
 - (a) The facts determining the emergency shall be specifically stated in the ordinance.
 - (b) No ordinance granting, renewing, or amending any franchise, or imposing any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, extension of an expiring tax, or tax policy change directly causing a net tax revenue gain to the Town shall be adopted as an emergency ordinance.
- (3) An emergency ordinance may be introduced and adopted at any regular or special meeting. An emergency ordinance shall take effect upon adoption. Following adoption, an emergency ordinance shall be published in full.

6.05 Codification.

- (1) The Council shall cause the ordinances of a general and permanent character to be codified and thereafter maintained in current form.
- (2) Any ordinance that is not of a general and permanent nature shall not be codified.

6.06 Adoption of Codes by Reference. The Council by ordinance may adopt by reference any code published by the federal government, State of Colorado or by any agency of either of them, or by any municipality, or by recognized trade or professional organizations, or amendments or revisions thereof. The procedure of adoption of a code by reference shall be as provided in the Colorado Revised Statutes applicable to the adoption of codes by reference.

6.07 Public Records. All public records of the Town shall be open for inspection by any person at reasonable times in accordance with applicable law.

6.08 Fines and Penalties for Ordinance Violations. Penalties for the violation of Town ordinances shall be established by ordinance. No fine or sentence for such violation shall exceed the maximum established by Colorado Revised Statutes for municipal ordinance violations.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Articles VII through XIII	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
Administration asks that the Home Rule Commission review and discuss Articles VII through XIII of the draft Home Rule Charter, if time allows, and provide staff with proposed changes for adoption.	<input type="checkbox"/> Presentation <input checked="" type="checkbox"/> <u>Discussion</u> <input type="checkbox"/> Approval <input type="checkbox"/> Action Requested	
BRIEF SUMMARY		
<p>If time permits, the Home Rule Commission may begin reviewing Articles VII through XIII of the draft Home Rule Charter. These articles were created by the Town of Eagle Home Rule Commission and include no changes by Administration.</p> <p>As the Commission approves Articles within this Home Rule Charter, Administration will provide an updated red-line version and an updated clean version at each following meeting.</p>		
ADMINISTRATION ANALYSIS AND RECOMMENDATION		
Administration recommends that the Home Rule Commissioners provide staff with proposed changes to Articles VII through XII of the draft Home Rule Charter, if time allows, for adoption at the January 4 th HRC Meeting.		
MATERIALS SUBMITTED		
<p>The following materials were submitted and included in this packet:</p> <ul style="list-style-type: none"> No materials included 		