



**HOME RULE CHARTER
COMMISSION MEETING**

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

**AGENDA
MEETING 2021-03HRCC
Monday, February 1, 2021 – 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)

- 2021-02VHRC 1.19.2021

B. REGULAR MEETING

1. Home Rule Charter Article VI (pg. 7)

- Discussion
- Action

2. Home Rule Charter Article VIII (pg. 14)

- Discussion
- Action

3. Home Rule Charter Article IX (pg. 23)

- Discussion
- Action



4. **Home Rule Charter Article X (pg. 28)**
 - Discussion
 - Action

5. **Home Rule Charter Article XI (pg. 31)**
 - Discussion
 - Action

6. **Home Rule Charter Article XII (pg. 44)**
 - Discussion

7. **Home Rule Charter Article XIII (pg. 47)**
 - Discussion

C. STAFF REPORTS

D. ADJOURN

*Virtual Home Rule Charter Commission Meeting 2021-03
Monday, February 1, 2021 6:00 PM (MDT)*

*Registration URL
https://us02web.zoom.us/webinar/register/WN_77xid4pQQhuSViYOeJ9rg*



**HOME RULE CHARTER
COMMISSION MEETING**

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

**MINUTES
MEETING 2021-02HRCC
Monday, January 19, 2021 - 6:00 p.m.**

Commissioners Present:

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

Absent:

Josh Green
Mercedes Hernandez
Kerri Iserman

Staff Present:

Nicholas Wharton, Town Administrator
Lindsay Radcliff-Coombes, Assistant Town Administrator
Michael Jenner, Town Clerk
Sarah Scrivner, Executive Assistant
Kathryn Sellars, Town Attorney

A. CALL TO ORDER

1. Roll Call

2. Pledge of Allegiance

3. Approval of Agenda

MOTION WAS MADE BY COMMISSIONER PIRRONE second by Commissioner Wilson 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

- 2021-01VHRC 1.4.2021

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

MOTION PASSED

B. REGULAR MEETING

1. Home Rule Charter Article IV

- Discussion
- Action

MOTION WAS MADE BY COMMISSIONER PIRRONE second by Commissioner Nethery to approve Home Rule Charter Article IV. All Commission members present voting **YES**,

MOTION PASSED

2. Home Rule Charter Article V

- Discussion- Dave Bruen came in at 6:12 this evening.
- Action

MOTION WAS MADE BY COMMISSIONER McLeod second by Commissioner Baszler to approve Home Rule Charter Article V with the removal of 5.03. All Commission members present voting **YES**,

MOTION PASSED

3. Home Rule Charter Article VI

- Discussion- The Commission will wait until the next meeting to view discussed language

- before voting.
- Action

NO MOTION WAS MADE

NO ACTION TAKEN

4. Home Rule Charter Article VII

- Discussion
- Action

MOTION WAS MADE BY COMMISSIONER PIRRONE second by Commissioner Nethery to approve article 7 with the changes. All Commission members present voting **YES**,

MOTION PASSED

MOTION WAS MADE BY COMMISSIONER PIRRONE second by Commissioner Nethery to withdraw the previous motion and approve article 7 with changes as noted by Katheryn. All Commission members present voting **YES**,

MOTION PASSED

5. Home Rule Article VIII

- Discussion

6. Home Rule Charter Article IX

- Discussion.

7. Home Rule Charter Article X

- Discussion.

8. Home Rule Charter Article XI

- Discussion.

9. Home Rule Charter Article XI-XIII

- Possible Discussion.

C. STAFF REPORTS

D. ADJOURN

-Meeting adjourned at 9:07 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
Home Rule Charter Article VI	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
<p>Administration asks that the Home Rule Commission review and discuss Article VI 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 VI of the Home Rule Charter • Move Approve Article VI 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 a redline and proposed final version of Article VI of the Home Rule Charter. This article reflects the following additional changes discussed at the previous January 4th and 19th Commission Meeting:</p> <ul style="list-style-type: none"> • Addition of verbiage in Section 6.01 • Removal of Section 6.03(2) • Addition of Section 6.03(4) <p>If the Commission approves this Article within this Home Rule Charter, Administration will post the final version of Article VI on the Town’s Website for the Public to review.</p>		
ADMINISTRATION ANALYSIS AND RECOMMENDATION		
<p>Administration recommends that the Home Rule Commissioners review and discuss Article VI of the Home Rule Charter and take action by approving Article VI 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 VI • Proposed 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 except approval of a bond offering which is otherwise authorized by resolution, 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.

(1) Any Council Member or the Mayor may require one additional reading of any introduced ordinance at the next available regular or special meeting of the Council and read by title.

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(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.

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(3)(4) Any Council Member or the Mayor may require one additional reading of any introduced ordinance at the next regular or special meeting of the Council. Once the option of one additional reading has been exercised by a Council Member or the Mayor, it may not be exercised by any other Council Member or the Mayor. Nothing in this subsection 4 may be deemed to limit Council's authority to continue an ordinance by a majority vote.

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(4)(5) If the ordinance is adopted by the Council, either as presented or as amended, it shall be published and available for public inspection.

(5)(6) Each ordinance shall be effective thirty (30) days after publication or at such

later date as specified in the ordinance, except as stated in section 6.04.

~~(6)~~(7) The method of official Town publication of ordinances shall be set by ordinance.

~~(7)~~(8) 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.

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 except approval of a bond offering which is otherwise authorized by resolution, 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) Any Council Member or the Mayor may require one additional reading of any introduced ordinance at the next regular or special meeting of the Council. Once the option of one additional reading has been exercised by a Council Member or the Mayor, it may not be exercised by any other Council Member or the Mayor. Nothing in this subsection 4 may be deemed to limit Council's authority to continue an ordinance by a majority vote.
 - (5) If the ordinance is adopted by the Council, either as presented or as amended, it shall be published and available for public inspection.
 - (6) Each ordinance shall be effective thirty (30) days after publication or at such later date as specified in the ordinance, except as stated in section 6.04.
 - (7) The method of official Town publication of ordinances shall be set by ordinance.

(8) 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 Article VIII	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
<p>Administration asks that the Home Rule Commission review and discuss Article VIII 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 VIII of the Home Rule Charter • Move Approve Article VIII 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 a redline and proposed final version of Article VIII of the Home Rule Charter. This article reflects the following additional changes discussed at the previous January 19th Commission Meeting:</p> <ul style="list-style-type: none"> • 8.03(1) Final Budget Public Hearing • 8.04 Detail proposed for “Scope of Annual Budget” • 8.08 Capital Program • 8.12(1) Forms of Borrowing <p>If the Commission approves this Article within this Home Rule Charter, Administration will post the final version of Article VIII on the Town’s Website for the Public to review.</p>		
ADMINISTRATION ANALYSIS AND RECOMMENDATION		
<p>Administration recommends that the Home Rule Commissioners review and discuss Article VIII of the Home Rule Charter and take action by approving Article VIII 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 VIII • Proposed Home Rule Charter Article VIII 		

Article VIII
Town Finances and Borrowing

- 8.01 Fiscal Year. The fiscal year of the Town, and all of its agencies, shall begin on the first (1st) day of January and end on the thirty-first (31st) day of December of each year.
- 8.02 Annual Budget. A proposed budget ~~reflecting the needs and desires of the community~~ for the ensuing fiscal year shall be delivered to the Council by the Town Manager on or before the fifteenth (15th) day of October of each year.
- 8.03 Budget Hearing.
- (1) The Council shall hold a public hearing on the proposed budget ~~on or before the thirtieth (30th) day of November of each year~~ in accordance with applicable law.
 - (2) Notice of the time and place of such hearing shall be published at least once seven (7) days prior to such hearing, and copies of the proposed budget shall be made available to the public ~~by depositing them~~ in the office of the Town Clerk.
 - (3) The Council may at any time before final adoption increase, decrease, add or strike out any item in the budget.
- 8.04 Scope of Annual Budget.
- (1) The budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Town Manager deems desirable or the Council may require. The budget shall lay out a plan for all the operations, programs, capital acquisitions, projects, and debt service payments of the Town.
 - ~~(2) — In organizing the budget, the Town Manager shall utilize fund, department, revenue, and expenditure/expense classifications and groupings consistent with generally accepted budgetary practices for municipal governments in keeping with guidelines published from time to time by the Government Finance Officers Association of the United States and Canada or its successor entity. The budget shall include a budget message from the Town Manager highlighting the key features of the budget. The budget shall lay out a clear plan for all the operations, programs, capital acquisitions, projects, and debt service payments of the Town.~~
 - ~~(3) — The budget shall display beginning fund balances, revenues and other sources of funds, expenditures and other uses of funds, transfers between funds, and ending fund balances for all governmental and proprietary funds of the Town, as defined by the Governmental Accounting Standards Board (GASB) or its successor entity. These displays shall include the actual, audited amounts for at least the immediately preceding year, the budgeted amounts for the current year, estimated amounts for~~

the current year, and proposed amounts for next fiscal year.

~~(a) Reasonable provisions for contingencies may be budgeted for any fund.~~

~~(b) The total of proposed expenditures, including contingencies, shall not exceed the total of beginning fund balances available plus revenues and other sources of funds for any fund.~~

8.05 Adoption of Budget and Appropriation.

(1) Not later than the fifteenth (15th) day of December of each calendar year, the Council shall adopt a resolution adopting the budget and a resolution adopting the annual appropriations. All such annual appropriations shall lapse at the end of each fiscal year.

(2) Budget records are public records that shall be ~~conveniently~~ available to the public in the office of the Town Clerk.

(3) If the Council fails to adopt a budget by this date, the amounts appropriated for the operation of the various departments and areas of the Town during the prior fiscal year shall be deemed adopted for the current fiscal year on a month to month basis, with all items prorated accordingly until such time as the Council adopts the budget for the current fiscal year.

8.06 General Fund. The General Fund is the Town's primary operating fund. All revenues not specifically allocated to any other fund shall be placed in the General Fund.

8.07 Other Funds. In addition to funds provided for in this Charter, the Council may by ordinance establish other funds, including enterprise and special purpose funds, as it deems necessary and appropriate in accordance with Generally Accepted Accounting Principles (GAAP). The ordinance establishing such funds shall clearly state the purpose for the fund.

~~8.08 Capital Program. The Town Manager shall prepare and submit a long-range capital program simultaneously with the recommended budget. The Council shall adopt a long-range capital program, the contents of which are designated by the Council, simultaneously with the recommended budget.~~

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~~8.098.08~~ Transfer of Funds. Except as may be restricted by law, the Council may by resolution transfer any unencumbered appropriation, balance, or portion thereof from a fund to another.

Commented [KMS1]: Legal's suggested revision: The Town Manager shall prepare and submit a long-range capital program simultaneously with the recommended budget.

8.10 Increase or Reduction of Appropriations.

(1) The Council may modify appropriations by resolution during the fiscal year for

unanticipated budgetary issues. Such modified appropriations shall not cause total expenditures within a fund to exceed the beginning fund balance or the funds available plus anticipated revenues and other sources of funds within the fund as estimated in the budget.

(2) If at any time during the fiscal year it appears probable to the Town Manager or their designee that the funds available plus anticipated revenues and other sources of funds within any fund will be insufficient to meet the amount appropriated, the Town Manager shall provide a report to the Council without delay recommending any steps to be taken to correct the deficiency. The Council shall then take such further action as it deems necessary to correct the deficiency.

~~8.11 Records of Authorized Expenditures. Records of expenditures authorized to be made are public records that shall be conveniently available to the public.~~

8.128.11 Independent Audit. An independent audit shall be made of all Town accounts for each fiscal year and more frequently if deemed necessary by the Council. Such audit shall be made by certified public accountants selected by the Council who shall complete the audit in accordance with state regulations. Copies of such audit shall be made available for public inspection at the office of the Town Clerk.

8.138.12 Forms of Borrowing.

(1) The Town may, subject to any applicable limitations in the Colorado Constitution, including any requirements for voter approval, borrow money and issue securities or enter into other obligations to evidence such borrowing in any form and in any manner determined by the Council to be in the best interests of the Town by ordinance or resolution after a public hearing. All prior Town borrowing, securities, or financial obligations, including, without limitation, those involving which are voter-approved ~~waivers or amendments to constitutional limits~~, remain in full force and effect.

(2) In addition to being authorized by this Article to issue bonds for any municipal purpose as authorized by law, the Town is specifically authorized, by ordinance, with or without an election, as determined by the Council, to issue revenue bonds or otherwise to extend its credit for the purpose of purchasing, equipping, constructing, or otherwise acquiring, extending or improving a water, sewer, or other public utility, facility or project, provided that the bonds or other obligation shall be made payable from the net revenues derived from the operation of such system, utility or project, or from the proceeds of any tax other than the general ad valorem tax imposed by the Town.

(a) Such bonds shall not be issued until a public hearing on the question of issuance of the same shall have been held.

- (b) Notice of such hearing shall be published at least seven (7) days in advance.

8-148.13 Long-Term Rentals and Leaseholds.

(1) In order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes, the Town may enter into long-term installment purchase contracts and rental or leasehold agreements, either as lessor or as lessee. Such agreements may include an option or options to purchase and acquire title to such property within a period not exceeding the useful life of such property. Each such agreement and the terms thereof shall be approved by ordinance.

(2) The Council may provide for payment of installments thereof out of the general *ad valorem* tax levy, by the imposition of rates, tolls or service charges for the use of such property or any part thereof, out of any other available municipal revenues or by any combination of the foregoing methods.

8-158.14 Short-Term Notes. The Town by ordinance may borrow money without an election in anticipation of the collection of taxes and issue short-term notes to evidence the amount so borrowed. Any such short-term notes shall mature within twelve (12) months.

8-168.15 Municipal Investments. The Council ~~may shall~~ adopt guidelines for municipal investments as long as those guidelines comply with the following conditions:

- (1) Such guidelines are subject to any applicable limitations in the Colorado Constitution, including any requirements for voter approval; and
- (2) Such guidelines are determined by the Council to be in the best interest of the Town.

8-178.16 Special Districts. The Council may, by ordinance, limit the maximum mill levy authorized to be imposed by any special district formed under Title 32, C.R.S. by a developer to finance development in the Town.

Article VIII
Town Finances and Borrowing

8.01 Fiscal Year. The fiscal year of the Town, and all of its agencies, shall begin on the first (1st) day of January and end on the thirty-first (31st) day of December of each year.

8.02 Annual Budget. A proposed budget for the ensuing fiscal year shall be delivered to the Council by the Town Manager on or before the fifteenth (15th) day of October of each year.

8.03 Budget Hearing.

(1) The Council shall hold a public hearing on the proposed budget in accordance with applicable law.

(2) Notice of the time and place of such hearing shall be published at least once seven (7) days prior to such hearing, and copies of the proposed budget shall be made available to the public in the office of the Town Clerk.

(3) The Council may at any time before final adoption increase, decrease, add or strike out any item in the budget.

8.04 Scope of Annual Budget.

(1) The budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Town Manager deems desirable or the Council may require. The budget shall lay out a plan for all the operations, programs, capital acquisitions, projects, and debt service payments of the Town.

8.05 Adoption of Budget and Appropriation.

(1) Not later than the fifteenth (15th) day of December of each calendar year, the Council shall adopt a resolution adopting the budget and a resolution adopting the annual appropriations. All such annual appropriations shall lapse at the end of each fiscal year.

(2) Budget records are public records that shall be available to the public in the office of the Town Clerk.

(3) If the Council fails to adopt a budget by this date, the amounts appropriated for the operation of the various departments and areas of the Town during the prior fiscal year shall be deemed adopted for the current fiscal year on a month to month basis, with all items prorated accordingly until such time as the Council adopts the

budget for the current fiscal year.

8.06 General Fund. The General Fund is the Town's primary operating fund. All revenues not specifically allocated to any other fund shall be placed in the General Fund.

8.07 Other Funds. In addition to funds provided for in this Charter, the Council may by ordinance establish other funds, including enterprise and special purpose funds, as it deems necessary and appropriate in accordance with Generally Accepted Accounting Principles (GAAP). The ordinance establishing such funds shall clearly state the purpose for the fund.

Capital Program. The Town Manager shall prepare and submit a long-range capital program simultaneously with the recommended budget.

8.08 Transfer of Funds. Except as may be restricted by law, the Council may by resolution transfer any unencumbered appropriation, balance, or portion thereof from a fund to another.

8.10 Increase or Reduction of Appropriations.

(1) The Council may modify appropriations by resolution during the fiscal year for unanticipated budgetary issues. Such modified appropriations shall not cause total expenditures within a fund to exceed the beginning fund balance or the funds available plus anticipated revenues and other sources of funds within the fund as estimated in the budget.

(2) If at any time during the fiscal year it appears probable to the Town Manager or their designee that the funds available plus anticipated revenues and other sources of funds within any fund will be insufficient to meet the amount appropriated, the Town Manager shall provide a report to the Council without delay recommending any steps to be taken to correct the deficiency. The Council shall then take such further action as it deems necessary to correct the deficiency.

8.11 Independent Audit. An independent audit shall be made of all Town accounts for each fiscal year and more frequently if deemed necessary by the Council. Such audit shall be made by certified public accountants selected by the Council who shall complete the audit in accordance with state regulations. Copies of such audit shall be made available for public inspection at the office of the Town Clerk.

8.12 Forms of Borrowing.

(1) The Town may, subject to any applicable limitations in the Colorado Constitution, including any requirements for voter approval, borrow money and issue securities or enter into other obligations to evidence such borrowing in any form and in any manner determined by the Council to be in the best interests of the Town by

ordinance or resolution after a public hearing. All prior Town borrowing, securities, or financial obligations, including, without limitation, those which are voter-approved, remain in full force and effect.

(2) In addition to being authorized by this Article to issue bonds for any municipal purpose as authorized by law, the Town is specifically authorized, by ordinance, with or without an election, as determined by the Council, to issue revenue bonds or otherwise to extend its credit for the purpose of purchasing, equipping, constructing, or otherwise acquiring, extending or improving a water, sewer, or other public utility, facility or project, provided that the bonds or other obligation shall be made payable from the net revenues derived from the operation of such system, utility or project, or from the proceeds of any tax other than the general ad valorem tax imposed by the Town.

(a) Such bonds shall not be issued until a public hearing on the question of issuance of the same shall have been held.

(b) Notice of such hearing shall be published at least seven (7) days in advance.

8.13 Long-Term Rentals and Leaseholds.

(1) In order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes, the Town may enter into long-term installment purchase contracts and rental or leasehold agreements, either as lessor or as lessee. Such agreements may include an option or options to purchase and acquire title to such property within a period not exceeding the useful life of such property. Each such agreement and the terms thereof shall be approved by ordinance.

(2) The Council may provide for payment of installments thereof out of the general *ad valorem* tax levy, by the imposition of rates, tolls or service charges for the use of such property or any part thereof, out of any other available municipal revenues or by any combination of the foregoing methods.

8.14 Short-Term Notes. The Town by ordinance may borrow money without an election in anticipation of the collection of taxes and issue short-term notes to evidence the amount so borrowed. Any such short-term notes shall mature within twelve (12) months.

8.15 Municipal Investments. The Council may adopt guidelines for municipal investments as long as those guidelines comply with the following conditions:

(1) Such guidelines are subject to any applicable limitations in the Colorado Constitution, including any requirements for voter approval; and

(2) Such guidelines are determined by the Council to be in the best interest of the

Town.

8.16 Special Districts. The Council may, by ordinance, limit the maximum mill levy authorized to be imposed by any special district formed under Title 32, C.R.S. by a developer to finance development in the Town.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article IX	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
<p>Administration asks that the Home Rule Commission review and discuss Article IX 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 IX of the Home Rule Charter • Move Approve Article IX 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 a redline and proposed final version of Article IX of the Home Rule Charter. This article reflects the following additional changes discussed at the previous January 19th Commission Meeting:</p> <ul style="list-style-type: none"> • 9.06(1) Term for Franchise Agreement • Removal of Section 9.08 <p>If the Commission approves this Article within this Home Rule Charter, Administration will post the final version of Article IX on the Town’s Website for the Public to review.</p>		
ADMINISTRATION ANALYSIS AND RECOMMENDATION		
<p>Administration recommends that the Home Rule Commissioners review and discuss Article IX of the Home Rule Charter and take action by approving Article IX 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 IX • Proposed Home Rule Charter Article IX 		

Article IX
Public Utilities, Franchises, and Use of Public Property

9.01 Town Authority.

(1) The Town shall have and exercise with regard to all utilities, public services and franchises, including water and water rights and acquisition thereof and bonded indebtedness in connection therewith, all municipal authority and functions now existing and that may be hereafter provided by the Colorado Constitution and Colorado Revised Statutes.

(2) The Town shall have authority, within or without the territorial limits of the Town, to construct, condemn, purchase, acquire, lease and operate public works, utilities and assets, equipment and everything in relation to or in connection therewith, in whole or in part, for the use of the Town, its inhabitants and those it serves.

(3) Except as otherwise provided by the Colorado Constitution or this Charter, all authority concerning the granting, amending, revoking or otherwise dealing in franchises shall be exercised by the Council.

9.02 Grant of Public Utility Franchise. Grants of public utility franchises and all extensions and amendments shall be granted only by ordinance. The granting of franchises by the Town shall be limited only by the provisions of the Colorado Constitution and statutes that are applicable to home rule municipalities as now in effect or as hereafter amended.

9.03 Water Rights. The Town shall have the authority to buy, exchange, lease, sell, own, control and otherwise deal in water rights.

9.04 Utility Rates. The Council shall, by resolution, establish rates, rules and regulations for services provided by municipally owned utilities.

9.05 Extraterritorial Utility Service. If the Council desires to extend the municipal utilities beyond Town boundaries, it shall do so by ordinance.

9.06 Term, Compensation, and Restriction.

(1) No franchise, lease or right to use the streets or the public places or property of the Town shall be granted for a term that exceeds ~~twenty (20)~~fifteen (15) years. Every grant of a franchise shall fix the amount and manner of payment of compensation to be paid by the grantee for the use of the same. Such compensation shall be paid as provided and be subject to mutual periodic renegotiation, and failure to pay shall result in forfeiture of the franchise at the option of the Council. This provision shall not except the grantee from any lawful taxation upon his or its

property, nor from any license, charges or other impositions levied by the Council, not levied on account of the use granted by the franchise.

(2) Every ~~non-Town-owned~~ public utility not owned by the Town, whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and other public places as shall arise from its use thereof and shall protect and save the Town harmless from all damages arising from said use.

(3) Every such public utility may be required by the Town to permit joint use of its property and appurtenances located in the streets, alleys or other public places of the Town by the Town and by other utilities insofar as such joint use may be reasonably practicable.

9.07 Assignment of Franchise. Any assignment or leasing of a franchise shall be considered forfeiture unless consent is given by the Council by ordinance.

~~9.08 Franchise Records. Franchise records are public records that shall be conveniently available to the public.~~

9.099.08 Existing Franchises. All franchise ordinances of the Town in effect at the time that this Charter is adopted shall remain in full force and effect according to their provisions and terms until the expiration date provided in such ordinance or until modified by another franchise.

~~9.0910~~ Revocable License. The Council may grant a license at any time for the temporary use, control or operation of any Town-controlled property, provided such licenses shall be revocable at the will of the Council, regardless of whether or not such right to revoke is expressly reserved in such license.

Article IX
Public Utilities, Franchises, and Use of Public Property

9.01 Town Authority.

(1) The Town shall have and exercise with regard to all utilities, public services and franchises, including water and water rights and acquisition thereof and bonded indebtedness in connection therewith, all municipal authority and functions now existing and that may be hereafter provided by the Colorado Constitution and Colorado Revised Statutes.

(2) The Town shall have authority, within or without the territorial limits of the Town, to construct, condemn, purchase, acquire, lease and operate public works, utilities and assets, equipment and everything in relation to or in connection therewith, in whole or in part, for the use of the Town, its inhabitants and those it serves.

(3) Except as otherwise provided by the Colorado Constitution or this Charter, all authority concerning the granting, amending, revoking or otherwise dealing in franchises shall be exercised by the Council.

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9.06 Term, Compensation, and Restriction.

(1) No franchise, lease or right to use the streets or the public places or property of the Town shall be granted for a term that exceeds fifteen (15) years. Every grant of a franchise shall fix the amount and manner of payment of compensation to be paid by the grantee for the use of the same. Such compensation shall be paid as provided and be subject to mutual periodic renegotiation, and failure to pay shall result in forfeiture of the franchise at the option of the Council. This provision shall not except the grantee from any lawful taxation upon his or its property, nor from any license,

charges or other impositions levied by the Council, not levied on account of the use granted by the franchise.

(2) Every public utility not owned by the Town, whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and other public places as shall arise from its use thereof and shall protect and save the Town harmless from all damages arising from said use.

(3) Every such public utility may be required by the Town to permit joint use of its property and appurtenances located in the streets, alleys or other public places of the Town by the Town and by other utilities insofar as such joint use may be reasonably practicable.

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9.08 Existing Franchises. All franchise ordinances of the Town in effect at the time that this Charter is adopted shall remain in full force and effect according to their provisions and terms until the expiration date provided in such ordinance or until modified by another franchise.

9.09 Revocable License. The Council may grant a license at any time for the temporary use, control or operation of any Town-controlled property, provided such licenses shall be revocable at the will of the Council, regardless of whether or not such right to revoke is expressly reserved in such license.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article X	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
<p>Administration asks that the Home Rule Commission review and discuss Article X 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 X of the Home Rule Charter • Move Approve Article X 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 a redline and proposed final version of Article X of the Home Rule Charter. This article reflects the following additional changes discussed at the previous January 19th Commission Meeting:</p> <ul style="list-style-type: none"> • Removal of Section 10.03(2) <p>If the Commission approves this Article within this Home Rule Charter, Administration will post the final version of Article X on the Town’s Website for the Public to review.</p>		
ADMINISTRATION ANALYSIS AND RECOMMENDATION		
<p>Administration recommends that the Home Rule Commissioners review and discuss Article X of the Home Rule Charter and take action by approving Article X 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 X • Proposed Home Rule Charter Article X 		

**Article X
Taxation**

10.01 Power to Tax. The Town shall have all powers of taxation available to municipalities in the Colorado Constitution or any other enabling law.

10.02 Certification of Tax Levy.

(1) As required by law, the Council shall fix the amount of tax levy that shall be assessed, if any, upon each dollar of assessed valuation of all taxable property within the incorporated limits of the Town, and the Council shall cause the same to be certified to Weld County as required by law.

(2) If the Council fails in any year to make such levy as above provided, the rate last fixed shall be the rate for the ensuing fiscal year, which rate shall be levied as provided by law.

10.03 Expenditure of Revenues.

(1) The Town shall be authorized to collect, retain and expend all of the sales and use tax revenues and all revenues generated by the Town, subject only to those limitations previously approved by the voters, notwithstanding any limitation contained in Article X, Section 20, of the Colorado Constitution or any other law.

~~(2) The Town hereby declares its intent not to be bound by Colorado's so-called Gallagher Amendment, Article X, Section 3, of the Colorado Constitution, regarding valuations for assessment on real and personal property, which amendment does not apply to any Colorado home rule municipality.~~

Commented [KMS1]: I believe this can be removed with the repeal of Gallagher. The Governor hasn't issued the proclamation yet.

Article X
Taxation

10.01 Power to Tax. The Town shall have all powers of taxation available to municipalities in the Colorado Constitution or any other enabling law.

10.02 Certification of Tax Levy.

(1) As required by law, the Council shall fix the amount of tax levy that shall be assessed, if any, upon each dollar of assessed valuation of all taxable property within the incorporated limits of the Town, and the Council shall cause the same to be certified to Weld County as required by law.

(2) If the Council fails in any year to make such levy as above provided, the rate last fixed shall be the rate for the ensuing fiscal year, which rate shall be levied as provided by law.

10.03 Expenditure of Revenues.

(1) The Town shall be authorized to collect, retain and expend all of the sales and use tax revenues and all revenues generated by the Town, subject only to those limitations previously approved by the voters, notwithstanding any limitation contained in Article X, Section 20, of the Colorado Constitution or any other law.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article XI	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
<p>Administration asks that the Home Rule Commission review and discuss Article XI 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 XI of the Home Rule Charter • Move Approve Article XI 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 a redline and proposed final version of Article XI of the Home Rule Charter. This article reflects the following additional changes discussed at the previous January 19th Commission Meeting:</p> <ul style="list-style-type: none"> • 11.02(5) Referendum Petition File Date <p>If the Commission approves this Article within this Home Rule Charter, Administration will post the final version of Article XI on the Town’s Website for the Public to review.</p>		
ADMINISTRATION ANALYSIS AND RECOMMENDATION		
<p>Administration recommends that the Home Rule Commissioners review and discuss Article XI of the Home Rule Charter and take action by approving Article XI 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 XI • Proposed Home Rule Charter Article XI 		

Article XI
Initiative, Referendum and Recall

11.01 Initiative.

- (1) The initiative power, reserved by Article V, Section 1(9) of the Colorado Constitution, is hereby extended to the registered electors of the Town as to that Town legislation that is subject to the initiative power reserved in said Constitution.
- (2) Procedures for initiative shall be governed by the Colorado Constitution and the Colorado Revised Statutes, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.
- (3) An initiative petition shall be signed by registered electors of the Town equal in number to at least ten percent (10%) of the total number of registered electors of the Town as of the date of filing the petition.
- (4) The Town Clerk shall not count as valid any signature on an initiative petition if the date of the signature is prior to the date the form of the petition was approved by the Town Clerk.
- (5) A complete initiative petition shall be filed within one hundred eighty (180) days of the Town Clerk's approval of the form of petition.

11.02 Referendum.

- (1) The referendum power, reserved by Article V, Section 1(9) of the Colorado Constitution, is hereby extended to the registered electors of the Town as to those ordinances that are subject to the referendum power reserved in said Constitution. Such ordinances shall be referred pursuant to the Colorado Revised Statutes that establish procedures for a municipal referendum, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.
- (2) Procedures for referendum shall be governed by the Colorado Revised Statutes, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.
- (3) A referendum petition shall be signed by registered electors of the Town equal in number to at least ten percent (10%) of the total number of registered electors of the Town as of the final date of publication of the ordinance at issue.
- (4) The Town Clerk shall not count as valid any signature on a referendum petition if the date of the signature is prior to the date the form of the petition was approved by the Town Clerk.

(5) Complete referendum petitions must be filed within ~~thirty days (30)~~ ~~forty five (45)~~ days after adoption by the Council of the ordinance sought to be reconsidered.

Commented [KMS1]: I would consider limiting this to 30 days.

(6) When a valid referendum petition is filed with the Town Clerk, the ordinance sought to be reconsidered shall remain in effect until such time as:

(a) The Council, at its discretion, suspends the ordinance pending an election;

(b) A majority of the registered electors voting ~~against~~ the ordinance ~~vote against the ordinance~~ at an election held for that purpose; or

(c) A court order reverses the ordinance.

11.03 Petitioners' Committee. Any two (2) registered electors of the Town may commence initiative or referendum proceedings by filing with the Town Clerk during regular business hours an affidavit stating the following:

(1) Identification of the ordinance that may be subject to a referendum or initiative petition;

(2) They will constitute the Petitioners' Committee; and

(3) Their names and mailing address to which all notices to the Committee are to be sent.

11.04 Form and Content of Petitions.

(1) The petition shall set out in full the proposed initiative or cite the ordinance sought to be reconsidered. All pages of the petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in nonerasable ink and shall be followed by the printed name, street address of the person signing and date of signature. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance or proposed Charter amendment sought to be considered.

(2) The form of petition shall be submitted to the Town Clerk, during regular business hours, for review and approval. The Town Clerk shall approve or reject the form of the petition no later than five (5) business days following the date on which the Clerk received the petition for review.

11.05 Affidavit of Circulator. Each page of a petition shall have attached to it when filed, an affidavit executed by the circulator thereof stating the following:

(1) The affiant's name, address, and the date the affiant signed the affidavit;

(2) That the affiant has read and understands the laws governing the circulation of petitions;

(3) That the affiant was eighteen (18) years of age or older at the time of circulating the petition;

(4) That the affiant personally circulated the petition;

(5) That all signatures were affixed in their presence;

(6) That the affiant believes the signatures to be the genuine signatures of the persons whose name they purport to be;

(7) That, to the best of affiant's knowledge, all signatures are of persons who are registered electors of the Town of Severance; [and](#)

(8) That the affiant has not paid or will not in the future pay, and that the affiant believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer's signature to the petition.

11.06 Procedure After Filing. Within thirty (30) days after a petition is filed, the Town Clerk shall complete a certificate as to its sufficiency and as to the validity of the signatures thereon, specifying if it is insufficient the particulars wherein it is defective. The Town Clerk shall promptly send by mail a copy of the certificate to the Petitioners' Committee.

11.07 Action by Council. When an initiative or referendum petition has been finally determined sufficient, the Council shall, within thirty (30) days, either:

(1) Adopt the ordinance as submitted by the initiative petition; or

(2) Repeal the ordinance, or part thereof, subject to the referendum petition; or

(3) Determine to submit the proposal provided for in a petition to the registered electors of the Town; provided, however, the Council shall have power to change the detailed language of any proposed initiated ordinance and to affix the title thereto without changing the meaning of the initiated ordinance.

11.08 Results of Election.

(1) Initiative. If a majority of the registered electors voting on a proposed initiated ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the

same election, the one (1) receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) Referendum. If a majority of registered electors voting on a referred ordinance vote for repeal, it shall be considered repealed upon certification of the election results.

(3) Amendment or repeal. An ordinance adopted by the electorate may not be amended or repealed for the period of six (6) months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted for a period of six (6) months after the date of the election at which it was repealed; provided, however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiative procedure in accordance with the foregoing provisions of this Article, or if submitted to the electorate by the Council on its own motion. A proposed ordinance or proposed Charter amendment that fails at the election held to consider it shall not be refiled as an initiative petition for at least six (6) months after the election held to consider said ordinance or Charter amendment.

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

11.10 Withdrawal of Petition. No initiative or referendum petition may be withdrawn once it has been certified as sufficient by the Town Clerk.

11.11 Exceptions. Notwithstanding these provisions for initiative and referendum, the following ordinance matters shall not be subject to initiative or referendum:

(1) Ordinances addressing budgets, capital programs, appropriations, levies of taxes, and salaries or terms of employment of Town officers or employees shall not be subject to initiative.

(2) Ordinances addressing budgets, capital programs, appropriations, levies of taxes, salaries of Town officers or employees, special elections, emergencies, authorization of issuance of improvement district bonds payable in part from special assessments, levying special assessments, or contractual obligations of the Town shall not be subject to referendum.

11.12 Recall.

(1) A petition to recall the Mayor or any Council Member may be filed at any time after the Mayor or Council Member has been in office for six (6) months, pursuant to C.R.S. § 31-4-501, *et seq.*, as amended, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.

(2) A recall petition must be presented to the Town Clerk for review and shall name ~~not~~ less than three (3) and ~~not~~ more than five (5) registered electors who shall represent the recall effort and specify a mailing address where notices related to the petition shall be sent.

(3) The recall petition shall include a statement, in not more than two hundred (200) words, of the grounds on which the recall is sought.

(4) No recall petition shall be circulated until approved as to form by the Town Clerk. The Town Clerk shall approve or disapprove the form of the petition by the close of the third business day following submission of the proposed petition, and the Clerk shall mail notice of their action to the person sought to be recalled on the day that any such petition is approved.

(5) A recall petition shall be signed by registered electors of the Town. Each signature shall be executed in non-erasable ink and shall be followed by the printed name, street address of the person signing and date of signature. The signers shall number at least twenty-five (25) percent of the number of eligible electors of the Town at the last preceding regular election.

(6) The Town Clerk shall not count as valid any signature on a recall petition if more than thirty (30) days have elapsed between the date the petition was approved by the Town Clerk and the date of the signature.

(7) The signed recall petition shall be submitted to the Town Clerk during regular business hours, and the Town Clerk shall issue a statement to the mailing address provided in Section 11.12(2) and the incumbent of the number of valid signatures and whether the recall petition is sufficient or insufficient by the close of business on the fifth business day after the petition is filed.

(8) Written protests to the determination of sufficiency may be filed by registered electors of the Town within fifteen (15) days after the filing of the petition. Protests shall be processed in accordance with the Colorado Revised Statutes.

(9) If a recall petition is determined sufficient, the Town Clerk shall submit it to the Council at the first regular meeting of the Council after the close of the protest period.

(10) The recall election shall be held ~~not~~ less than thirty (30) days nor more than ninety (90) days from the date of the determination of sufficiency of the petition. However, if a regular municipal or statewide general election is scheduled to be held within one hundred eighty (180) days after submission of a recall petition, even though that election is not the one at which the office held by the person

sought to be recalled would otherwise be filled, the recall election shall be held at the same time as that regular municipal or statewide general election.

(11) After one (1) recall petition and election, no further petition shall be filed against the same person during the term for which they were elected or appointed, unless the signers number at least fifty (50) percent of the number of registered electors at the last preceding regular election.

Article XI
Initiative, Referendum and Recall

11.01 Initiative.

(1) The initiative power, reserved by Article V, Section 1(9) of the Colorado Constitution, is hereby extended to the registered electors of the Town as to that Town legislation that is subject to the initiative power reserved in said Constitution.

(2) Procedures for initiative shall be governed by the Colorado Constitution and the Colorado Revised Statutes, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.

(3) An initiative petition shall be signed by registered electors of the Town equal in number to at least ten percent (10%) of the total number of registered electors of the Town as of the date of filing the petition.

(4) The Town Clerk shall not count as valid any signature on an initiative petition if the date of the signature is prior to the date the form of the petition was approved by the Town Clerk.

(5) A complete initiative petition shall be filed within one hundred eighty (180) days of the Town Clerk's approval of the form of petition.

11.02 Referendum.

(1) The referendum power, reserved by Article V, Section 1(9) of the Colorado Constitution, is hereby extended to the registered electors of the Town as to those ordinances that are subject to the referendum power reserved in said Constitution. Such ordinances shall be referred pursuant to the Colorado Revised Statutes that establish procedures for a municipal referendum, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.

(2) Procedures for referendum shall be governed by the Colorado Revised Statutes, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.

(3) A referendum petition shall be signed by registered electors of the Town equal in number to at least ten percent (10%) of the total number of registered electors of the Town as of the final date of publication of the ordinance at issue.

(4) The Town Clerk shall not count as valid any signature on a referendum petition if the date of the signature is prior to the date the form of the petition was approved by the Town Clerk.

(5) Complete referendum petitions must be filed within thirty days (30) days after adoption by the Council of the ordinance sought to be reconsidered.

(6) When a valid referendum petition is filed with the Town Clerk, the ordinance sought to be reconsidered shall remain in effect until such time as:

(a) The Council, at its discretion, suspends the ordinance pending an election;

(b) A majority of the registered electors voting against the ordinance at an election held for that purpose; or

(c) A court order reverses the ordinance.

11.03 Petitioners' Committee. Any two (2) registered electors of the Town may commence initiative or referendum proceedings by filing with the Town Clerk during regular business hours an affidavit stating the following:

(1) Identification of the ordinance that may be subject to a referendum or initiative petition;

(2) They will constitute the Petitioners' Committee; and

(3) Their names and mailing address to which all notices to the Committee are to be sent.

11.04 Form and Content of Petitions.

(1) The petition shall set out in full the proposed initiative or cite the ordinance sought to be reconsidered. All pages of the petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in nonerasable ink and shall be followed by the printed name, street address of the person signing and date of signature. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance or proposed Charter amendment sought to be considered.

(2) The form of petition shall be submitted to the Town Clerk, during regular business hours, for review and approval. The Town Clerk shall approve or reject the form of the petition no later than five (5) business days following the date on which the Clerk received the petition for review.

11.05 Affidavit of Circulator. Each page of a petition shall have attached to it when filed, an affidavit executed by the circulator thereof stating the following:

(1) The affiant's name, address, and the date the affiant signed the affidavit;

(2) That the affiant has read and understands the laws governing the circulation of petitions;

(3) That the affiant was eighteen (18) years of age or older at the time of circulating the petition;

(4) That the affiant personally circulated the petition;

(5) That all signatures were affixed in their presence;

(6) That the affiant believes the signatures to be the genuine signatures of the persons whose name they purport to be;

(7) That, to the best of affiant's knowledge, all signatures are of persons who are registered electors of the Town of Severance; and

(8) That the affiant has not paid or will not in the future pay, and that the affiant believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer's signature to the petition.

11.06 Procedure After Filing. Within thirty (30) days after a petition is filed, the Town Clerk shall complete a certificate as to its sufficiency and as to the validity of the signatures thereon, specifying if it is insufficient the particulars wherein it is defective. The Town Clerk shall promptly send by mail a copy of the certificate to the Petitioners' Committee.

11.07 Action by Council. When an initiative or referendum petition has been finally determined sufficient, the Council shall, within thirty (30) days, either:

(1) Adopt the ordinance as submitted by the initiative petition; or

(2) Repeal the ordinance, or part thereof, subject to the referendum petition; or

(3) Determine to submit the proposal provided for in a petition to the registered electors of the Town; provided, however, the Council shall have power to change the detailed language of any proposed initiated ordinance and to affix the title thereto without changing the meaning of the initiated ordinance.

11.08 Results of Election.

(1) Initiative. If a majority of the registered electors voting on a proposed initiated ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the

same election, the one (1) receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) Referendum. If a majority of registered electors voting on a referred ordinance vote for repeal, it shall be considered repealed upon certification of the election results.

(3) Amendment or repeal. An ordinance adopted by the electorate may not be amended or repealed for the period of six (6) months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted for a period of six (6) months after the date of the election at which it was repealed; provided, however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiative procedure in accordance with the foregoing provisions of this Article, or if submitted to the electorate by the Council on its own motion. A proposed ordinance or proposed Charter amendment that fails at the election held to consider it shall not be refiled as an initiative petition for at least six (6) months after the election held to consider said ordinance or Charter amendment.

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

11.10 Withdrawal of Petition. No initiative or referendum petition may be withdrawn once it has been certified as sufficient by the Town Clerk.

11.11 Exceptions. Notwithstanding these provisions for initiative and referendum, the following ordinance matters shall not be subject to initiative or referendum:

(1) Ordinances addressing budgets, capital programs, appropriations, levies of taxes, and salaries or terms of employment of Town officers or employees shall not be subject to initiative.

(2) Ordinances addressing budgets, capital programs, appropriations, levies of taxes, salaries of Town officers or employees, special elections, emergencies, authorization of issuance of improvement district bonds payable in part from special assessments, levying special assessments, or contractual obligations of the Town shall not be subject to referendum.

11.12 Recall.

(1) A petition to recall the Mayor or any Council Member may be filed at any time after the Mayor or Council Member has been in office for six (6) months, pursuant to C.R.S. § 31-4-501, *et seq.*, as amended, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.

(2) A recall petition must be presented to the Town Clerk for review and shall name no less than three (3) and no more than five (5) registered electors who shall represent the recall effort and specify a mailing address where notices related to the petition shall be sent.

(3) The recall petition shall include a statement, in not more than two hundred (200) words, of the grounds on which the recall is sought.

(4) No recall petition shall be circulated until approved as to form by the Town Clerk. The Town Clerk shall approve or disapprove the form of the petition by the close of the third business day following submission of the proposed petition, and the Clerk shall mail notice of their action to the person sought to be recalled on the day that any such petition is approved.

(5) A recall petition shall be signed by registered electors of the Town. Each signature shall be executed in non-erasable ink and shall be followed by the printed name, street address of the person signing and date of signature. The signers shall number at least twenty-five (25) percent of the number of eligible electors of the Town at the last preceding regular election.

(6) The Town Clerk shall not count as valid any signature on a recall petition if more than thirty (30) days have elapsed between the date the petition was approved by the Town Clerk and the date of the signature.

(7) The signed recall petition shall be submitted to the Town Clerk during regular business hours, and the Town Clerk shall issue a statement to the mailing address provided in Section 11.12(2) and the incumbent of the number of valid signatures and whether the recall petition is sufficient or insufficient by the close of business on the fifth business day after the petition is filed.

(8) Written protests to the determination of sufficiency may be filed by registered electors of the Town within fifteen (15) days after the filing of the petition. Protests shall be processed in accordance with the Colorado Revised Statutes.

(9) If a recall petition is determined sufficient, the Town Clerk shall submit it to the Council at the first regular meeting of the Council after the close of the protest period.

(10) The recall election shall be held no less than thirty (30) days nor more than ninety (90) days from the date of the determination of sufficiency of the petition. However, if a regular municipal or statewide general election is scheduled to be held within one hundred eighty (180) days after submission of a recall petition, even though that election is not the one at which the office held by the person

sought to be recalled would otherwise be filled, the recall election shall be held at the same time as that regular municipal or statewide general election.

(11) After one (1) recall petition and election, no further petition shall be filed against the same person during the term for which they were elected or appointed, unless the signers number at least fifty (50) percent of the number of registered electors at the last preceding regular election.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article XII	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
Administration asks that the Home Rule Commission review and discuss Article XII 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 XII of the draft Home Rule Charter. This article was created by the Town of Eagle Home Rule Commission and includes redlines from Legal and Administration. 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"> • Review Section 12.01 • Remove Section 12.11 <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 XII of the draft Home Rule Charter for adoption at the February 16 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 XII with comments 		

Article XII
Miscellaneous Provisions

- 12.01 Purchase, Sale or Lease of Real Property. Except as otherwise expressly provided herein, the Council by ordinance may purchase, sell, exchange or dispose of any interest in real property. The Council by resolution may lease, for such a term as the Council shall determine, any real property to any person, firm or corporation, public or private.
- 12.02 Eminent Domain. The Town shall have the right of eminent domain for all municipal purposes, either within or without the limits of the Town.
- 12.03 Contracts with Other Governmental Entities. The Council may by resolution enter into contracts or agreements with other governmental or quasi-governmental entities.
- 12.04 Bequests, Gifts and Donations.
- (1) The Council, on behalf of the Town, may receive or refuse bequests, gifts and donations of all kinds or property in fee simple or in trust, for public, charitable or other purposes, and do all things and acts necessary to carry out the purposes of such bequests, gifts and donations, with the power to manage, lease, sell or otherwise dispose of the same in accordance with the terms of the bequests, gifts or donation.
- (2) The Council may provide in each annual budget for the amount, if any, of money that the Council may have available to donate for public, charitable or other purposes. The Council may delegate the responsibility for such bequests, gifts and donations to such persons as the Council may deem advisable.
- 12.05 Contracts for Purchases, Leases, and Construction of Public Works.
- (1) The Council may establish procedures for entering into contracts for purchases, leases and construction of public works.
- (2) Purchases of or contracts for supplies, material, equipment or improvements shall be made under such requirements regarding competitive bidding as prescribed by the Council.
- 12.06 Amendment.
- (1) In addition to the provisions otherwise stated in this Charter, this Charter may be amended in the manner provided by Article XX of the Constitution of the State of Colorado at any general election or special election called for such purpose under the following circumstances:
- (a) Upon proposed amendments referred to the Town electors by a majority of the Council; or

Commented [KMS1]: The Commission should consider whether to keep/amend this Section or if the provisions in Sec. 1.04 are sufficient.

Commented [NW2R1]: I would recommend Leaving this.

(b) Upon proposed amendments submitted by electors pursuant to the initiative process.

(2) If provisions of two (2) or more proposed amendments adopted or approved at the same election conflict, the amendment receiving the greatest number of votes shall prevail on the conflicting issue.

12.07 Effect of Colorado Revised Statutes. The power to supersede any law of the State of Colorado now or hereafter in force, insofar as it applies to local or municipal affairs, shall be reserved to the Town, acting by ordinance, subject only to restrictions of the State Constitution and subsequent amendments to this Charter. Unless otherwise provided by this Charter or by ordinances adopted by the Council hereunder, the statutes of the State of Colorado shall be in effect.

12.08 Severability. If any provision, article, section, sentence, clause or part of this Charter, or the application thereof to any person or circumstance, is adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such adjudication shall not affect, impair or invalidate the Charter as a whole or any part hereof other than the parts so adjudged to be invalid, and to this end, the provisions of this Charter are declared to be severable.

12.09 Titles and Subheadings. The Article titles and subheadings in this Charter are inserted for convenience and reference only and shall not be construed to limit, describe or control the scope or intent of any provision herein.

12.10 Construction of Words. Except as otherwise specifically provided or indicated by the context hereof, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein. The singular number shall include the plural, the plural shall include the singular, and the masculine gender shall extend to and include the feminine gender and neuter. "Person" may extend to and be applied to bodies politic and corporate and to partnerships as well as individuals.

12.11 Indemnification of Mayor and Council. The Council may indemnify any Council member, the Mayor, any employee or any appointed official who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding by reason of the fact that he or she is or was an officer of the Town, against expenses (including attorney fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by them in connection with such action, suit, or proceeding if he or she acted in good faith within the scope of their employment, in a manner he or she reasonably believed to be in the best interest of the Town, and had no reasonable cause to believe their conduct was unlawful.

Commented [KMS3]: Legal counsel first recommends deletion on this section. There is statutory and case law that addresses this and there is no need to provide for it in the Chapter.

If the Commission wants it to remain, we recommend making it mandatory and changing the "may" to "shall".

Commented [NW4R3]: I would recommend removing this section.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article XIII	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
Administration asks that the Home Rule Commission review and discuss Article XIII 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 XIII of the draft Home Rule Charter. This article was created by the Town of Eagle Home Rule Commission and includes redlines from Legal and Administration. 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"> • Review Section 13.06 <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 XIII of the draft Home Rule Charter for adoption at the February 16 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 XIII with comments 		

Article XIII
Transition Period

- 13.01 Purpose of Transitional Provisions. The purpose of this Article is to provide for an orderly transition from the present Town government to a home rule Town government under provisions of this Charter. The provisions of this Article shall constitute a part of this Charter only to the extent necessary to accomplish that purpose.
- 13.02 Effective Date of Charter. This Charter shall become effective immediately upon final certification of the election at which a majority of the registered electors of the Town approve this Charter.
- 13.03 Continuation of Appointed Officers and Employees.
- (1) All appointed officers and employees of the Town at the time this Charter is adopted shall continue in that office or employment that corresponds to the Town office or employment that they held prior to the effective date of this Charter.
- (2) All appointed officers and employees of the Town shall, in all respects, be subject to the provisions of this Charter, as though they had been appointed or employed in the manner provided in this Charter, except that any officer or employee who holds a position that this Charter provides to be held at the pleasure of Council shall hold such position only at such pleasure regardless of the term for which they were originally appointed or hired.
- 13.04 Continuation of Prior Town Legislation. All bylaws, ordinances, resolutions, contracts, rules and regulations of the Town in force at the time this Charter becomes effective shall continue in full force except insofar as they conflict with the provisions of this Charter or are subsequently amended or repealed by ordinance enacted under authority of this Charter.
- 13.05 Savings Clause. This Charter shall not affect any suit pending in any court or any document heretofore executed in connection therewith. Nothing in this Charter shall invalidate any existing contracts between the Town and any person.
- 13.06 Current Trustee Terms. Trustees in office as of the date of adoption of this Charter shall become Council Members instead of Trustees. The term of any Trustee that would end in April of 2022 shall be extended until the first regular Council meeting in January following the ~~final certification of the~~ November 2023 election. Trustees elected in April of 2020 shall become Council Members instead of Trustees, and their terms shall be extended until the first regular Council meeting in January following the ~~final certification of the~~ November 2025 election. The term of the Mayor elected in April of 2018~~20~~ shall continue until the first regular Council meeting in January following the ~~final certification of the~~ November 20~~23~~25 election.

Commented [KMS1]: The extension of terms needs to match the terms set forth in Article 2 and when new Council Members take their seats.

Commented [NW2R1]: This now represents that.

13.07 Time Limitation. All acts required by this Charter to be performed by the new Town Council shall be performed within one hundred eighty (180) days of the effective date of this Charter.

