



**HOME RULE CHARTER
COMMISSION MEETING**

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

**AGENDA
MEETING 2021-02HRCC
Tuesday, January 19, 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

- 2021-01VHRC 1.4.2021 (pg. 3)

B. REGULAR MEETING

1. Home Rule Charter Article IV (pg. 6)

- Discussion
- Action

2. Home Rule Charter Article V (pg. 13)

- Discussion
- Action

3. Home Rule Charter Article VI (pg. 17)

- Discussion
- Action



4. **Home Rule Charter Article VII (pg. 22)**
 - Discussion
 - Action
5. **Home Rule Charter Article VIII (pg. 25)**
 - Discussion
6. **Home Rule Charter Article IX (pg. 30)**
 - Discussion
7. **Home Rule Charter Article X (pg. 33)**
 - Discussion
8. **Home Rule Charter Article XI (pg. 35)**
 - Discussion
9. **Home Rule Charter Article XI-XIII (pg. 42)**
 - Possible Discussion

C. STAFF REPORTS

D. ADJOURN

*Virtual Home Rule Charter Commission Meeting 2021-02
Tuesday, January 19, 2021 6:00 PM (MDT)*

*Registration URL
https://us02web.zoom.us/webinar/register/WN_Nh5lQl0kTFqTkwoMcNogLw*



**HOME RULE CHARTER
COMMISSION MEETING**

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

**MINUTES
MEETING 2021-01HRCC
Monday, January 4, 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
Kerri Iserman

Absent:

Mercedes Hernandez

Staff Present:

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

A. CALL TO ORDER

1. Roll Call

2. Pledge of Allegiance

3. Approval of Agenda

MOTION WAS MADE BY COMMISSIONER PIROONE second by Commissioner Green 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

- 2020-03VHRC 12.21.2020

MOTION WAS MADE BY COMMISSIONER PIRRONE second by Commissioner McLeod to approve the 2020-03VHRC 12.21.2020 minutes with a correction to the date from the 7th of December to the 21st. All Commission members present voting YES,

MOTION PASSED

B. REGULAR MEETING

1. Article III

- Discussion
- Action

MOTION WAS MADE BY COMMISSIONER McLEOD second by Commissioner Iserman to keep section 3.5 item number 4, voting, every council member and mayor present shall vote on every matter be left in as stated. RECORDED VOTE,

YEAS: Stout, Pirrone, Green, Nethery, Deason, Bruen, Wilson, Iserman, McLeod.....9
NAYS: Baszler, Meyers, Fries, Simpson.....4

MOTION PASSED

MOTION WAS MADE BY COMMISSIONER PIRONE second by Commissioner Green to approve Article III with changes discussed at this meeting. RECORDED VOTE,

YEAS: Stout, Meyers, Pirrone, Green, Simpson, Nethery, Deason, Bruen, Wilson, Fries, Iserman, McLeod.....12
NAYS: Baszler.....1

MOTION PASSED

- 2. **Article IV**
 - Discussion
- 3. **Article V**
 - Discussion
 - Recess from 8:08-8:15 pm.
- 4. **Article VI**
 - Discussion

MOTION WAS MADE BY COMMISSIONER McLEOD second by Commissioner Pirrone for Ordinances to require one reading before adoption. **RECORDED VOTE,**

YEAS: Stout, Pirrone, Green, Simpson, Nethery, Deason, Bruen, Wilson, Baszler, Iserman, McLeod.....11
NAYS: Meyers, Fries.....2

MOTION PASSED

- 5. **Article VII**
 - Discussion
- 6. **Article VIII through XIII**
 - Possible Discussion- These topics were not discussed on this date.

C. STAFF REPORTS-

- **Mr. Wharton brought up a potential conflict with two meetings in both January and February with legal holidays and asked the commission if they would like to push the meeting one day to the following Tuesday.**

MOTION WAS MADE BY COMMISSIONER McLEOD second by Commissioner Pirrone to move the two meetings to the following Tuesday. All Commission members present voting **YES,**

MOTION PASSED

D. ADJOURN

-Meeting adjourned at 9:04 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 IV	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
<p>Administration asks that the Home Rule Commission review and discuss Article IV 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 IV of the Home Rule Charter • Move Approve Article IV 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 IV of the Home Rule Charter. This article reflects the following additional changes discussed at the previous January 4th Commission Meeting:</p> <ul style="list-style-type: none"> • Removal of “senior” in 4.01(5) • Addition of “accountable in 4.03(2) & 4.04(2) <p>If the Commission approves this Article within this Home Rule Charter, Administration will post the final version of Article IV 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 IV of the Home Rule Charter and take action by approving Article IV 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 IV • Proposed 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~~ administration and then 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 ~~an employee 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-accountable to the Council and shall perform such duties as provided by ordinance or resolution, or at the direction of the Council or Town staff, so long as such direction is not contrary to this Charter, state or federal law or the ordinances of the Town or the ethical rules applicable to the legal profession.~~

~~(2)~~

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-accountable to the Council and shall perform such duties as provided by ordinance or resolution.

4.05 Town Clerk. Town Clerk shall be hired by the Town Manager as an employee of the

Commented [KMS1]: I just wanted to reiterate the means of employment/appointment (contract versus no contract) is probably too details for the charter. I would also recommend leaving out any reference to the condition of employment (such as evaluation, etc.).

Commented [GB2]: I would eliminate "without a definite term – leave that option to each hiring decision rather than prohibit the option

Commented [KMS3]: Consider changing for consistency with Town Attorney and Municipal Judge

Commented [GB4]: Same comment – this can be in the contract, but why tie your hands?

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.

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.

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(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 an employee 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.

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

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(1) The Municipal Judge shall serve at the will of the Council.

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(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.
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- (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.
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- (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		
<p>Administration asks that the Home Rule Commission review and discuss Article V 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 V of the Home Rule Charter • Move Approve Article V 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 V of the Home Rule Charter. This article reflects the following additional changes discussed at the previous January 4th Commission Meeting:</p> <ul style="list-style-type: none"> • Removal of verbiage in 5.02(5) • Addition of 5.03 <p>If the Commission approves this Article within this Home Rule Charter, Administration will post the final version of Article V 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 V of the Home Rule Charter and take action by approving Article V 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 V • Proposed 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 or resolution, ~~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.~~

5.03 Planning and Zoning Commission

(1) The Planning and Zoning Commission shall exercise the functions and powers and perform the duties assigned to it by this Charter and the ordinances of the Town. It shall prepare and submit to Council for its approval a master plan for the physical development of the town; it shall hold hearings relative to zoning and changes in the zoning ordinance and shall make recommendations thereon to Council; and it shall assist Council in considering and recommending a plan for capital improvements. Where

Commented [GB1]: I would agree – different Boards may need different levels of formality in removing members – I suggest you create this with each Board.

Commented [KMS2]: Consider whether you want to have a detailed process in the Charter. While this process is fair, it is often messy. It is unlikely that appointing board and commission members have a protected interest in their appointment that would trigger the requirements of due process this provision provides. However, there is nothing wrong with leaving it in.

not otherwise provided by Charter or ordinance, the Planning and Zoning Commission shall have the power, perform the functions, and follow the procedures set forth in the statutes of the State of Colorado.

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.

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5.03 Planning and Zoning Commission

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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 Commission Meeting:</p> <ul style="list-style-type: none"> • Addition of verbiage to 6.03(5) <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, 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 thirty (30) ~~ten (10)~~ days after publication or at such later date as specified in the ordinance, except as stated in section 6.04.
 - (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.

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.
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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.
 - (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 thirty (30) days after publication or at such later date as specified in the ordinance, except as stated in section 6.04.
 - (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 Article VII	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
<p>Administration asks that the Home Rule Commission review and discuss Article VII 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 VII of the Home Rule Charter • Move Approve Article VII 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 VII of the Home Rule Charter. This article reflects the following additional changes discussed at the previous January 4th Commission Meeting:</p> <ul style="list-style-type: none"> • Addition of “accountable in 7.02(1) • Addition of “accountable in 7.02(2) • Removal of 7.02(3) <p>If the Commission approves this Article within this Home Rule Charter, Administration will post the final version of Article VII 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 VII of the Home Rule Charter and take action by approving Article VII 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 VII • Proposed Home Rule Charter Article VII 		

**Article VII
Municipal Court**

7.01 Created.

- (1) There shall be a Municipal Court that shall have jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the Town. The scope of the Municipal Court's jurisdiction is hereby expressly declared not to be exclusive, original jurisdiction over matters arising under this Charter and ordinances.
- (2) The Council shall provide a suitable place and all supplies and personnel necessary for the proper functioning of the Court.
- (3) The Council shall provide by ordinance for the enforcement of its ordinances by fine or imprisonment.
- (4) The Municipal Court shall be presided over by the Municipal Judge, who shall be appointed by the Council as provided ~~by state law~~ by Section 4.04 of this Charter.

7.02 Powers.

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

~~The powers of and the procedure in the Municipal Court and the manner of enforcement of its orders and judgments shall be as provided for by ordinance presently enacted or hereafter enacted.~~

~~(1)~~(2) The Municipal Court shall be a qualified Municipal Court of record and all proceedings therein and evidence at trials shall be kept by verbatim record.

~~(2)~~(3) The Municipal Court may provide for the granting of probation and the conditional suspension of sentences.

~~(3)~~(4) The Municipal Court may order restitution as the Municipal Court deems appropriate.

Commented [GB1]: May want to specifically add a provision allowing it exclusive jurisdiction to resolve all land use matters arising under the Severance Land Use Code (See Town of Frisco Case)
Town of Frisco v. Baum, 90 P.3d 845

Commented [NW2R1]: See below in section 1 and 2.

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Article VII
Municipal Court

7.01 Created.

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(2) The Council shall provide a suitable place and all supplies and personnel necessary for the proper functioning of the Court.

(3) The Council shall provide by ordinance for the enforcement of its ordinances by fine or imprisonment.

(4) The Municipal Court shall be presided over by the Municipal Judge, who shall be appointed by the Council as provided by Section 4.04 of this Charter.

7.02 Powers.

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

(2) The Municipal Court shall be a qualified Municipal Court of record and all proceedings therein and evidence at trials shall be kept by verbatim record.

(3) The Municipal Court may provide for the granting of probation and the conditional suspension of sentences.

(4) The Municipal Court may order restitution as the Municipal Court deems appropriate.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article VIII	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
Administration asks that the Home Rule Commission review and discuss Article VIII 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 VIII 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"> • 8.03(1) Final Budget Public Hearing • 8.04 Detail proposed for “Scope of Annual Budget” • 8.08 Capital Program • 8.16 Special Districts <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 provide staff with proposed changes to Article VIII of the draft Home Rule Charter for adoption at the February 16th HRC Meeting.</p>		
MATERIALS SUBMITTED		
<p>The following materials were submitted and included in this packet:</p> <ul style="list-style-type: none"> • Home Rule Charter Article VIII with comments 		

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.~~

(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.

(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.~~

Commented [KMS1]: This is pretty specific. The deadlines in the local budget law will dictate when the public hearing will occur.

(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.~~

Commented [KMS2]: This is detail that could be left out of the Charter.

Commented [NW3R2]: Administration has provided recommendations for keeping some verbiage if the commission believes some language should remain.

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.

Commented [KMS4]: I would suggest that this is probably unnecessary. CORA already requires this and Sec. 8.03 already states that copies of the budget are available 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. ~~Upon Council's direction, the Town Manager shall prepare and submit a long-range capital program~~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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Commented [KMS5]: Does the Town want to require this or perhaps upon Council's motion/direction (which shall be discretionary), the Town Manager should prepare and submit a long-range capital program?

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

Commented [KMS6]: Similar to my comment above, CORA already requires this. This language is unnecessary.

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. 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) in advance.

Commented [KMS7]: If notice is going to be required, it is probably best to put a timeframe on that publication.

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. 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.

Commented [KMS8]: I would recommend, if you keep this, to change shall to “may”. But this is a power that the Town has regardless of the Charter so I would consider removing.

Commented [KMS9]: I would recommend removing this. This is a power that the Town has through the approval of a service plan. It has this power regardless of a Charter provision.

Commented [NW10R9]: I recommend leaving this in. Nonetheless, the Town has already limited the maximum mill levy per Chapter 19 of the municipal code.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article IX	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
Administration asks that the Home Rule Commission review and discuss Article IX 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 IX 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"> • 9.06(1) Term for Franchise Agreement <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 provide staff with proposed changes to Article IX of the draft Home Rule Charter for adoption at the February 16th HRC Meeting.</p>		
MATERIALS SUBMITTED		
<p>The following materials were submitted and included in this packet:</p> <ul style="list-style-type: none"> • Home Rule Charter Article IX with comments 		

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.~~

Commented [KMS1]: I would suggest removing. CORA governs this.

~~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.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article X	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
Administration asks that the Home Rule Commission review and discuss Article X 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 X 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 X 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 X with comments 		

**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.

Commented [NW2R1]: Would leave for now until it issued.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Home Rule Charter Article XI	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
Administration asks that the Home Rule Commission review and discuss Article XI 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 XI 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"> • 11.02(5) Referendum Petition File Date <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 XI 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 XI with comments 		

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~~ 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 ~~no~~ 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 ~~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 Articles XII through XIII	Nicholas J. Wharton, MPA	Nicholas J Wharton, MPA
ACTION REQUESTED		
Administration asks that the Home Rule Commission review and discuss Articles XII 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 XII 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 XII through XIII of the draft Home Rule Charter, if time allows, for adoption at the February 1 st 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 		