

## KEYSTONE CHARTER COMMISSION MEMORANDUM

**TO:** Keystone Charter Commission Members  
**FROM:** Jennifer Madsen  
**RE:** Provisions of the Draft Home Rule Charter for Consideration on Monday, April 24  
**DATE:** April 20, 2023

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This document provides options and considerations related to the philosophy of the commission, form of government, and draft charter language under review at the April 24, 2023, meeting. This memorandum is not intended to be a comprehensive or exclusive listing of the available options or considerations.

### **Prefatory Synopsis/Preamble (Philosophy of the Charter Commission)**

As previously discussed, the charter is the guiding document governing a home rule municipality. It is to the municipality what the constitution is to the federal government or state government. As a general matter, the charter outlines the organization of the government, establishes the basic procedures when the governing body acts, and may impose some restrictions.

In working through the draft of the charter, it may be important for the Charter Commission to determine the goals of the proposed charter. The first consideration is whether the proposed charter voters should be (1) broad and general in form or (2) detailed and restrictive in form.

Adoption of a broad and general charter will accomplish the goal of gaining the authority of a home rule municipality and, at the same time, allowing for flexibility for the future of the government.

An advantage of being home rule is that it provides greater flexibility to a municipal government, and it removes the requirements of potentially outdated state statutes. Thus, if the home rule charter is detailed and restrictive, the municipality may be free from the state statutory requirements but bound by the detailed and restrictive requirements of the home rule charter, which can only be amended by a vote of the registered voters. Whereas, if a broad and general charter is proposed, the governing body can create laws and policies through ordinances, resolutions, and motions, which are more easily adopted and amended or repealed.

You may want to spend time at the meeting considering and refining your goals for the charter commission. These goals can be included in the prefatory synopsis and preamble.

### **Draft of the Prefatory Synopsis and Preamble:**

#### **PREFATORY SYNOPSIS**

*On March 28, 2023, the citizens of Keystone, Colorado, voted to create a nine (9) member Home Rule Charter Commission to propose a governance structure that would dissolve the dependence on the state legislature and increase Keystone's ability to solve local issues at a local level. The government would be closer to the people of Keystone, more knowledgeable of and responsive to local needs and issues, and subject to the direct oversight of its citizens.*

*Commissioners assured that the following goals will be accomplished:*

- *Governance processes will be open, transparent, and responsive to the citizens.*
- *Elected officials will have processes that allow them to make decisions, and act quickly and responsibly.*
- *Checks and balances will be in place to protect the citizens' right to be heard, to assure that issues are adequately researched and considered, and to provide recourse if they disagree with decisions made by their elected representatives.*
- *Town staff will function efficiently, effectively, and professionally.*
- *The Charter promotes the flexibility needed for Keystone to grow, evolve, and respond to future circumstances.*

*The vision of the Charter Commission has been to present a document that provides Keystone with a responsive and efficient government accountable to the citizens.*

*Key provisions of the proposed Charter:*

- *recognize the Council-Manager form of government, with flexibility in organizational structure to allow Keystone to adjust to new demands and changing circumstances as the Town grows and prospers;*
- *implement effective checks and balances by, among other actions, providing powers of recall, initiative, and referendum;*
- *ensure responsible use of public funds and provide for the conduct of the Town's business on a balanced budget basis; and*
- *establish a structure for the efficient and orderly conduct of the Town government while also providing for and encouraging citizen participation in the affairs of the Town.*

*The Commission believes that this Charter fosters a sound and lasting government, with the optimum interests of the citizens of Keystone being paramount.*

## **PREAMBLE**

*We, the citizens of Keystone, Colorado declare the best government is the one closest to the people, depending not only on the individuals elected to Town offices, but also upon guiding principles, rules, and procedures.*

*This Town Charter, created to serve the people of Keystone, frees us from being required to rely on the state legislature to dictate the central terms and conditions of our Town. This Charter gives life to the essential nature of American citizenship. This document is dedicated to ensuring such rights and duties to the people and to encouraging citizen participation in our government for the proper and efficient progress of our Town.*

Consideration: The prefatory synopsis and preamble are unique to each home rule municipality and should express the goals of the charter commission. Here are the links to the Town of Silverthorne's [prefatory synopsis](#) and [preamble](#).

## **Form of Government**

The draft charter contemplates a form of government known as Council-Manager. The Council-Manager form of government is adopted by most home rule communities.

**Council-Manager:** The substantial majority of home rule municipalities in Colorado have adopted a council-manager form of government. The Council-Manager government has two basic features: a small, elected council to decide policy questions and a professionally trained manager hired by the council and subject to dismissal by council to carry out the day-to-day administration of the municipal government. The Council-Manager form combines the strong political leadership of elected officials with the strong managerial experience of an appointed city manager. The Council has the authority to set policy and develop a long-range vision. See [“Local Government That Works”](#) – a video from IMCA on Council-Manager form of government.

**Commission:** In a commission form of government, the elected official exercise both legislative and administrative powers. The board of commissioners controls all administrative departments within the municipality—each commissioner is typically responsible for a particular department. No Colorado home rule municipalities have a commission form of government.

**Mayor-Council:** Mayor-council governments consist of an elected executive officer called a mayor and an elected legislative body that is the council. In a mayor-council government, the mayor and council work together to balance and pass a budget, draft, and enforce legislation and oversee departments and appoint departmental heads. But the dynamics of how the mayor and council work together depend on the type of mayor-council government.

**Weak-Mayor Council:** The mayor and council are elected. The mayor does not have significant executive authority. The general characteristics of the mayor-council government are as follows:

- Council appoints and approves departmental heads.
- Council (usually in consultation with the mayor or an appointed administrative officer) drafts a budget.
- Mayor possesses limited or no veto power.
- Mayor officially represents the town on the state, national and international levels.
- Mayor shares oversight of the town’s day-to-day operations with Council, an appointed administrative officer or both.
- Mayor works together with Council, an appointed administrative officer or both to enforce laws and ordinances.
- Mayor may be a member of Council or the presiding officer of Council.

**Strong-Mayor Council:** The elected mayor is the town’s chief executive, while the elected-Council is the town’s primary legislative body. The general characteristics of strong mayor-council governments are as follows:

- Mayor appoints and removes departmental heads.
- Mayor drafts and proposes a budget to city council.
- Mayor possesses veto or line-item veto power.
- Mayor officially represents the town on the state, national and international levels.
- Mayor exercises oversight of the town’s day-to-day operations.
- Mayor enforces town laws and ordinances.
- Mayor is not a member of Council.

## **ARTICLE I – General Provisions**

### **Section 1.1. Name and Boundaries.**

The municipal corporation shall be known as the Town of Keystone, with boundaries the same as presently established, until changed in a manner authorized by law.

### **Section 1.2. Powers.**

The Town shall have all the power of local self-government and home rule and all power possible for a Town to have under the Constitution and the laws of the State of Colorado. The enumeration of powers under this Charter is not exclusive to others.

### **Section 1.3. Rights and Liabilities.**

By the name of the Town of Keystone, the municipal corporation shall have perpetual succession; shall own, possess, and hold all property, real and personal owned, possessed, and held by the Town and does assume and shall manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities of the Town; shall acquire all benefits and does assume and shall pay all bonds, obligations and indebtedness of the Town; may sue and defend; may purchase, lease, receive, hold and enjoy or sell and dispose of real and personal property; may establish public works and provide public utilities and other public services as permitted by law; and shall have a common seal and alter the same at pleasure.

### **Section 1.4. Form of Government.**

The municipal government provided by this Charter shall be a “Council-Manager” form of government. Pursuant to the Charter provisions and subject only to limitations imposed by the Constitution of the State of Colorado, all powers shall be vested in an elected Town Council, which shall enact local legislation, adopt budgets, determine policies, and appoint the Town Manager, who shall execute the laws and administer the Town government. All powers of the Town shall be exercised in the manner prescribed by this Charter or, if the manner is not so prescribed, then in such manner as may be prescribed by ordinance, resolution, or motion, or as provided by other applicable law.

**Section 1.5. Definitions.** The following terms as used in this Charter shall have the assigned meaning.

“C.R.S.” shall mean the Colorado Revised Statutes.

“Emergency Ordinance” shall mean an Ordinance adopted in accordance with the provisions of Section 7.6 of this Charter and for which the Town Council has determined that immediate effectiveness is necessary for the immediate preservation of the public peace, health, or safety.

“Motion” shall mean a formal step to introduce a matter for consideration or action of the Town Council on matters that are of a non-permanent nature that are adopted in a verbal form by a majority of the Town Council present at a meeting of the Town Council and reflected in the minutes of the meeting.

“Ordinance” shall mean a form of action of the Town Council adopting laws or legislative enactments of a permanent nature or other actions required by this Charter to be by ordinance, which acts must follow the procedure for passage required by this Charter and shall include Ordinances adopted through the process of initiative as provided in this Charter.

“Quorum” shall mean a majority number of the members of Town Council in office.

“Regular Town Election” shall mean the election held pursuant to Section 5.2 (a) of this Charter.

“Resolution” shall mean a written form of action of the Town Council on matters of a non-permanent nature that are effected through adoption by a majority of the Town Council present at a meeting of the Town Council.

“TABOR” shall mean the Taxpayer’s Bill of Rights as set forth in Article X, Section 20, of the Colorado Constitution, as may be amended from time to time.

“Town Council” shall mean the Mayor and the Councilmembers except the office of Mayor and Councilmember shall be distinguished for purposes of determining limits on number of terms as set forth in Section 2.3(d).

“Town Elective Offices” shall mean the offices of Town Council except as specifically addressed in this Charter.

**Considerations:** This draft charter language in Sections 1.1 through 1.5 is consistent with state law for municipalities and is consistent with the other home rule charters. An option is to remove the definition section. The definition section is not required; however, definitions of key terms may be helpful for an understanding of terms used throughout the charter.

## **Article II – Elective Offices**

### **Section 2.1. Town Council and Mayor.**

Except for the application of term limits as set forth in Section 2.3, the Town Council shall consist of the Mayor and six (6) Councilmembers. One (1) Councilmember shall serve as Mayor Pro-Tem. The Mayor and Councilmembers shall be elected at large from the entire Town.

**Considerations:** The draft charter language is consistent with state law on the size of a governing body for a statutory town.

### **Section 2.2. Limits on Elective Offices.**

In addition to the limits on other elective offices set forth in Section 2.6 of this Charter, no person shall be eligible to stand for election for more than one Town Elective Office at any single Town election. For purposes of this Section of the Charter only, “Town Elective Office” shall not include any office on a new charter commission to be formed in accordance with Part 2 of Article 2 of Title 31, C.R.S., as may be amended from time to time. A person may hold any Town Elective Office of any kind and run as a candidate in an election for another Town Elective Office of any kind at the same time, but if elected, the candidate must resign such candidate’s current Town Elective Office and fill the Town Elective Office to which the candidate was subsequently elected.

**Considerations:** The draft charter language is consistent with state law that an elected officer cannot hold two positions at the same time.

### **Section 2.3. Terms of Office--Town Elective Offices.**

(a) At the first election of Town Elective Officers, for the Councilmember position, the persons receiving the three highest numbers of votes shall be elected to four-year terms and all others shall be elected to two-year terms, and in the event of a tie in number of votes such that persons

with the three highest number of votes cannot be determined, the Town Clerk shall hold a lot drawing open to the public to assign terms to the persons with the lowest number of votes. The purpose is to create staggered terms of office for the Councilmember positions.

(b) The term of office for each person holding Town Elective Office shall commence upon their taking the oath of office at the ensuing organizational meeting of the Town Council held at the first regular meeting of the Town Council in the January following the election and shall continue during the term for which they shall have been elected until their successors shall have been elected and duly qualified. An organizational meeting of the Town Council shall be held at the first regular or special meeting of the Town Council in January following the election year.

(c) The Mayor and each Councilmember shall be elected for a term of four (4) years

(d) The limitations on terms imposed by Article XVIII, §11 of the Colorado Constitution, as amended, shall govern term limits in the Town. For clarity, Mayor and Councilmember shall be considered different offices for the purpose of calculating terms of office allowed under Article XVIII, §11 of the Colorado Constitution such that a person filling either the role of Mayor or Councilmember may seek and if elected or appointed serve in the other role for the full number of terms otherwise allowed despite being term limited for the previous role.

**Considerations:** The draft charter language is consistent with statutory towns for the terms of office of councilmembers by providing for four-year terms. Statutory towns have a two-year term of office for the mayor position. Options include altering the length of a term or changing the timeframe for taking office after the election.

An important discussion point and option is whether the charter commission desires to waive or expand term limits through the Charter. Article XVIII, §11 of the Constitution is applicable unless the Charter determines otherwise. Under the Constitution, no elected official may serve more than two consecutive terms (if terms are greater than two years).

#### **Section 2.4. Mayor--Powers and Duties.**

The Mayor shall preside at all meetings of the Town Council and shall exercise such powers and perform such other duties as are or may be conferred and imposed upon the Mayor by this Charter or the Ordinances of the Town. The Mayor shall have all the powers, rights, and privileges of a Councilmember. The Mayor shall have no power of veto. The Mayor shall be recognized as the head of the Town government for all ceremonial, dignitary and legal purposes, and the Mayor shall execute and authenticate legal instruments requiring the Mayor's signature as such official.

**Considerations:** This draft charter language is consistent with the Council-Manager form of government and consistent with state law for statutory towns.

#### **Section 2.5. Mayor Pro-Tem.**

The Town Council shall, at a regular meeting in February of each year, elect one of its Councilmembers to serve as Mayor Pro-Tem for a term of approximately one (1) year, commencing and expiring at the first regular meeting of the Town Council scheduled for March of each year. The Mayor Pro-Tem shall be elected by a majority of the members of Town Council present at said meeting and may be removed by a majority of members of Town Council in office at the time a vote is taken. In the absence or disability of the Mayor, the Mayor Pro-Tem shall preside at meetings of Town Council and shall have all powers and duties of the Mayor. The Mayor Pro-Tem shall have all the powers, rights, and privileges of a Councilmember.

**Considerations:** This draft charter language is consistent with other home rule municipalities. The language is also consistent with state law except that under state law, the term of the mayor pro-tem is two years rather than only one year. Options changing the provisions for election of the Mayor Pro-Tem or the term of the position.

**Section 2.6. Qualifications.**

(a) To be eligible to hold Town Elective Office, either by election or by appointment, a person, at the time of nomination and election or appointment, shall be a registered elector as defined by the laws of the State of Colorado, a primary resident and registered elector of the Town. To be eligible to hold Town Elective Office, a person shall have resided within the Town at the time of election or appointment for one (1) year immediately preceding such election or appointment.

(b) Each person holding Town Elective Office, either by election or by appointment, shall maintain primary residency in the Town and district (if elected by district), throughout such person's term of office. If any person holding Town Elective Office shall move from the Town or from the district (if elected by district), during such person's term of office, such person's seat shall be vacant and such vacancy shall be filled by the Town Council as provided by this Charter.

(c) No person holding Town Elective Office, either by election or by appointment, shall be an employee of the Town during such person's term of office or perform personal services for the Town for which such elected official is compensated other than as provided in this Charter.

(d) No person holding Town Elective Office, either by election or by appointment, shall hold any other elective position with a federal, state, county, or municipal governmental entity, excluding an office on a new charter commission to be formed in accordance with Part 2 of Article 2 of Title 31, C.R.S., as may be amended from time to time, during such person's term of office.

**Considerations:** The draft charter language is consistent with state law as to the qualifications of elected officials except that the provisions regarding employment by the Town are new and are common in many charters. Options include provisions prohibiting convicted felons (or persons convicted of certain enumerated offenses) from holding office, limiting employment by the Town for a period after leaving office, or changing the residency requirements (extending or decreasing the period).

**Section 2.7. Vacancies.**

(a) An official shall continue to hold Town Elective Office until the official's successor is duly qualified except when such office is vacated as set forth in this Section. A Town Elective Office shall become vacant whenever any officer fails to qualify within thirty (30) days after the commencement of such officer's term or retain qualification for Town Elective Office as set forth in Section 2.6, or is recalled, removed, dies, becomes incapacitated, resigns, refuses to serve, or is judicially declared incompetent or ceases to be a resident of the Town.

(b) In the event of a vacancy in a Town Elective Office, the Town Council may fill the vacancy by appointment or by calling for a special election as soon as practicable.

(1) If filled by appointment, the person appointed to fill the vacated Town Elective Office shall hold such office only until the term of office of a successor elected at the next Regular Town Election has commenced. At the next Regular Town Election, to retain staggered terms of office for Councilmembers, the successor elected to fill the office of Councilmember which was filled by appointment shall be nominated and elected to a term of either two (2) years or four (4) years.

(2) If filled by special election, the person elected to fill the vacated Councilmember office shall hold office only until the expiration of the term of office held by the Councilmember whose office was vacated.

(3) In order to maintain staggered terms on the Town Council, in the event that in any election year there are more than three (3) councilmember positions to be filled, the persons receiving the three highest numbers of votes shall be elected to four-year terms and all others shall be elected to two-year terms, and in the event of a tie in number of votes such that persons with the three highest number of votes cannot be determined, the Town Clerk shall hold a lot drawing open to the public to assign terms to the persons with the lowest number of votes.

**Considerations:** The draft charter language follows state law. Options include requiring special elections to fill a vacancy (which are costly) or possibly even requiring special elections depending on how far a term has progressed at the time of the vacancy.

### **Section 2.8. Compensation.**

All persons holding Town Elective Offices shall receive such compensation as established by Ordinance of the Town Council; provided, however, that the compensation of any person holding Town Elective Office shall not be increased or decreased in any term of office during which the increase or decrease is approved by the Town Council. All persons holding Town Elective Offices may, upon order of the Town Council, be paid their actual and necessary expenses incurred in the performance of their duties of office.

**Considerations:** This draft charter language is consistent with ethical principles and public trust concepts that the Town Council should not be deciding matters that provide an economic benefit to the persons on Town Council.

### **Section 2.9. Powers of Town Council.**

The Town Council shall constitute the legislative and governing body of the Town and shall have all legislative powers and functions of municipal government, except as otherwise provided in the Constitution of the State of Colorado or this Charter and shall have the power and authority to adopt such Ordinances, Resolutions, and Motions, as it shall deem proper.

**Considerations:** This draft charter language reflects the philosophy that the charter should be broad in its approach to avoid tying the hands of the city government at this level (i.e. it is much more difficult to amend a charter than to amend legislation).

### **Section 2.10. Oath of Office.**

Every person holding elected office, before entering upon the duties of such office, shall take an oath or affirmation of office that the officer will support the Constitution and the laws of the United States and of the State of Colorado and this Charter and the Ordinances of the Town and will faithfully perform the duties of the office upon which the officer is about to enter in accordance with the requirements of Article 12, Title 24, C.R.S., as may be amended from time to time.

**Considerations:** This draft charter language is consistent with state statute.

### **Section 2.11. Standards of Conduct.**

The Town Council may adopt an Ordinance governing disclosure of conflicts of interest, recusals from voting and other standards or code of conduct or ethics that shall supersede statutory or constitutional provisions governing or addressing the same matters. To the extent not superseded



by or conflicting with this Charter or such local Ordinance, the Town Council shall be governed by the Standards of Conduct as contained in Title 24, Article 18 of the C.R.S., as the same may be amended from time to time.

**Considerations:** The draft charter language is consistent with the standards set forth in Title 24, Article 18 of the Colorado Revised Statutes. A separate memorandum will be provided on the Colorado Code of Ethics applicable to local government officials.

**Section 2.12. Removal from Office.**

By an affirmative roll call vote of two-thirds (2/3) of the members of the Town Council in office at the time of such vote, the Mayor or any Councilmember may be removed from office for good cause. No removal shall be made without notice to such elected official which contains the charge in writing and the facts upon which the charge is based and an opportunity of a hearing before the Town Council, which hearing shall be held no sooner than ten (10) days after the date the notice is given.

**Considerations:** The draft charter language creates a different standard for removal from office. Under state law, only a majority vote is needed for removal. The other requirements are consistent with state law. Option to delete the language related to removal from office.