

**TOWN OF MOUNTAIN VILLAGE
TOWN COUNCIL SPECIAL MEETING
WEDNESDAY, JUNE 12, 2024, 5:00 PM
2nd FLOOR CONFERENCE ROOM, MOUNTAIN VILLAGE TOWN HALL
455 MOUNTAIN VILLAGE BLVD, MOUNTAIN VILLAGE, COLORADO
AGENDA**

https://us06web.zoom.us/webinar/register/WN_3roqgH-OT5awhyDt71ZNZw

Please note that times are approximate and subject to change.

	Time	Min	Presenter	Type	
1.	5:00				Call to Order
2.	5:00	90	McConaughy Wisor Johnston	Work Session	Discussion Regarding Proposed Amendments to the Mountain Village Home Rule Charter
3.	6:30	40		Legal	Executive Session for the Purpose of: <ul style="list-style-type: none"> a. Receiving Legal Advice on Specific Legal Questions, to Determine Positions Relative to Matters that may be Subject to Negotiations, Developing Strategy for Negotiations and/or Instructing Negotiators, In Connection With Gondola Construction Pursuant to C.R.S. 24-6-402(4)(b) and (e) b. Receiving Legal Advice on Specific Legal Questions, to Determine Positions Relative to Matters that may be Subject to Negotiations, Developing Strategy for Negotiations and/or Instructing Negotiators, In Connection With the Acquisition of Land Pursuant to C.R.S. 24-6-402(4)(b) and (e)
4.	7:10				Adjourn

Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting Town Hall at 970-369-6429 or email: mvclerk@mtnvillage.org. A minimum notice of 48 hours is required so arrangements can be made to locate requested auxiliary aid(s).

<https://bit.ly/WatchMVMeetings>

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https://us06web.zoom.us/webinar/register/WN_3roqgH-OT5awhyDt71ZNZw

After registering, you will receive a confirmation email containing information about joining the webinar.

Zoom participation in public meetings is being offered as a courtesy, however technical difficulties can happen, and the Town bears no responsibility for issues that could prevent individuals from participating remotely. Physical presence in Council Chambers is recommended for those wishing to make public comments or participate in public hearings.

**TOWN COUNCIL MEETING
AGENDA FOR FEBRUARY 15, 2024**

Public Comment Policy:

- All public commenters must sign in on the public comment sign in sheet and indicate which item(s) they intend to give public comment on.
- Speakers shall wait to be recognized by the Mayor and shall give public comment at the public comment microphone when recognized by the Mayor.
 - Speakers shall state their full name and affiliation with the Town of Mountain Village if any.
- Speakers shall be limited to three minutes with no aggregating of time through the representation of additional people.
 - Speakers shall refrain from personal attacks and shall keep comments to that of a civil tone.
 - No presentation of materials through the AV system shall be allowed for non-agendized speakers.
- Written materials must be submitted 48 hours prior to the meeting date to be included in the meeting packet and of record. Written comment submitted within 48 hours will be accepted but shall not be included in the packet or be deemed of record.

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MEMORANDUM

TO: Mountain Village Town Council
FROM: David McConaughy
RE: **Charter Amendments Workshop**
DATE: June 12, 2024

SUMMARY

An ordinance proposing an election on amendments to the Town Charter was discussed by Council in March but was tabled pending further discussion including a workshop set for June 12, 2024. This memo has been updated from the version included in the March Council packet. The proposed amendments are:

- 1) Allowing property owners holding property in LLCs or trusts to vote like other non-resident property owners.
- 2) Moving the regular election from June to July
- 3) Clarifying the effective dates of ordinances
- 4) Allowing publication of ordinances via the Town website rather than by newspaper
- 5) Reconciling a conflict between the Town Code and the Charter regarding DRB terms

An updated draft ordinance is provided with this memo based on the motion at the March meeting. However, because it is too late to proceed with an election date in July as originally contemplated, any revised ordinance will need to be considered by Council at two future meetings for first and second reading. No vote or formal action will occur at the June 12 workshop.

PROPOSED CHARTER AMENDMENTS

1. Voting

Mountain Village is unique in Colorado by allowing non-resident property owners to vote in municipal elections. As a resort community, Mountain Village was always expected to include a significant number of second homes that would be owned by non-residents. Before incorporation of the Town, Mountain Village was governed by the Mountain Village Metropolitan District (“MVMD”), which was a special district organized under Title 32 of Colorado Statutes. Pursuant to C.R.S. § 32-1-806, eligible electors of a special district include residents, property owners, and spouses of property owners. When the Town took over from MVMD, the voting rights of non-resident property owners were preserved via Charter Section 2.3, which

allows non-resident property owners to vote if they have owned property for at least 30 days. Where property is jointly owned (such as by a husband and wife), each owner of at least 50% of the property may vote.

It has become common for people to own properties in a family limited liability company (LLC) or other similar entity for estate administration purposes. If one member of the LLC dies, the member's asset is still part of his or her taxable estate, but the title remains in the LLC. LLC members can include provisions in the LLC Operating Agreement about transfer of LLC interests to other family members or the surviving members without triggering a real estate transfer. This can avoid a costly and lengthy probate process in court to determine inheritance and how to transfer all the assets of an estate. For similar reasons, property may be owned by a trust that designates a surviving spouse, children, grandchildren or others as beneficiaries. Presently, owners who take advantage of these common approaches are not able to vote in Mountain Village elections.

The proposed ordinance would restore voting rights to non-residents who own their properties in LLCs or trusts to be consistent with voting rights for direct ownership. It would allow no more than two LLC members to vote, subject to the same 50% ownership rule that now applies for individual owners. For property owned by a trust, the trustee could designate one person to vote.

Based on Council direction at the March meeting, the proposed ordinance has been revised to apply to LLCs and trusts but not corporations. It has also been revised to exclude commercial property ownership by LLCs or trusts. As of April 2024, the Town Clerk estimates that property owners in Mountain Village include 1160 individuals, 1264 LLCs, and 199 trusts. Only a portion of those owners hold residential property, and many of the trusts and LLCs own multiple parcels. Under the proposed amendments, commercial ownership doesn't count, and owning more than one parcel does not convey any additional voting rights. Staff estimates that approximately 153 trusts and 566 LLCs could benefit from the proposed amendments. Each trust could qualify for one voter, and each LLC would qualify for either one or two new voters depending on whether the voter owns at least 50% or not.

a) Voter Registration Procedures

The specific procedures for voter registration are not addressed in the draft ordinance and should not be set in stone in the Charter. Rather, the Town Clerk and Town Council should have flexibility to adopt and revise procedures and forms from time to time as appropriate and consistent with state laws that may be amended by the legislature.

In 2009, the Town Council adopted voting procedures pursuant to Resolution 2009-0820-12, a copy of which is attached. For non-resident voters, the Resolution requires the Town Clerk to conduct an audit prior to every election by comparing the voter registration list to the records of the San Miguel County Clerk and Recorder and County Assessor. This includes reviewing information from recorded deeds to verify the names of individuals who own real property in the Town.

Deeds to LLCs or trusts will identify the name of the LLC or trust but usually not the individual owners of each LLC or beneficiaries of trusts. Under the proposed ordinance, an authorized representative of the trust or LLC would fill out a voter registration form with the Town Clerk to designate the natural person(s) authorized to vote for the LLC or trust. A statutory form called a "Statement of Authority" provides a common approach used by title companies to verify who can sign a deed or other real estate documents on behalf of an LLC or trust. C.R.S. 38-30-172 provides that a recorded Statement of Authority shall be prima facie evidence of the authority of the person designated in the Statement of Authority to execute documents on behalf of the

entity. Therefore, one possible approach to assist the Town Clerk would be to require such a Statement of Authority from the LLC or trust to verify who can sign the voter registration form designating the individuals who could vote. A sample Statement of Authority form is provided with this memo. This is just one possible approach and is not specifically required by the proposed ordinance. If the Council passes the ordinance, and if the amendments are approved by the current voters of Mountain Village, the Council and Town Clerk should revisit voter registration procedures before the next election. As noted above, under existing Colorado law special districts already allow non-resident property owners to vote in special district elections, so the Clerk should be able to develop recommendations based on procedures employed by other local governments.

2. Election Date

The Charter presently sets municipal elections for the last Tuesday of June in odd-numbered years. The proposed change would move that to the last Tuesday in July. The Town conducts municipal elections by mail. Ballots are mailed approximately 22 days before the election to the address on file with the voter registration list. For 2025, the last Tuesday in June is June 24, so without a Charter Amendment the mail-out date for the next regular Town election would be June 2, right around when school gets out for the summer. The idea of moving the election date to July is to encourage greater participation in municipal elections and avoid having ballots mailed during off-season or when people may be traveling.

3. Procedures for Ordinances

The Charter requires two readings of ordinances but is silent as to when ordinances become effective. Where the Charter is silent, Colorado statutes should control. C.R.S. § 31-16-105 provides that ordinances shall not become effective until 30 days after publication. Similarly, C.R.S. § 31-11-105 provides that ordinances shall not become effective until 30 days after publication and provides for a citizen's right of referendum within that time period. If a referendum is filed, then the effective date is delayed until an election on the referendum occurs.

The statutes cited above apply to statutory towns where only one reading of an ordinance is required, so ordinances are only published one time. Under the Charter, Mountain Village requires two readings of ordinances, and the ordinance must be published after first reading. However, the Charter requires publication after second reading only if there are changes on second reading. The Charter would benefit from provisions clarifying the effective date regardless of whether or not changes occur on second reading.

An ordinance should not go into effect until after the referendum date expires. Otherwise, an ordinance might conceivably go into effect for several days or weeks only to be suspended pending an election, and then it may or may not go back into effect depending on the election result. As an example, imagine if the Council passed a "Be Like Alta" ordinance prohibiting snowboarding. The ordinance goes into effect for 5 days before a referendum petition is filed, and then it is soundly defeated at the election. In the meantime, the police issue a ticket to a snowboarder caught during the 5-day period when the ordinance was effective. Does he have to pay the fine?

The proposed amendment would clarify that ordinances must *always* be re-published following second reading and then take effect 14 days later, whether there are changes or not. This would provide a consistent effective date for all ordinances. The amendment would also clarify that the referendum deadline would be the day before the effective date, so the Constitutional referendum right would be preserved, and the "now it applies/now it doesn't" scenario outline above would be avoided. Especially if Proposed Amendment #4 is approved to publish ordinances via the website, re-publication after second

reading should be easy to provide a clear and consistent rule on the effective date and the referendum deadline.

4. Publication by Website

Many Colorado cities and towns publish their ordinances and public notices on their official websites rather than in printed newspapers. The Charter presently requires publication by newspaper. This requires additional effort by the Town Clerk and payment of publication costs to the newspaper. Publication by newspaper also causes delay, especially when there may be no local newspaper that publishes a daily edition. The drafters of the Charter may not have anticipated the evolution of the Internet to its modern form.

Publication via the Town’s official website would save time and money, provide more immediate notice to the citizens of the Town, and bring Mountain Village in line with other municipalities.

5. Design Review Board

In 2022, the Town Council amended the Municipal Code to change the terms of DRB members from 2-year terms to 4-year terms to benefit from the experience and institutional knowledge of DRB members. That change conflicts with the Charter, which provides for 2-year terms. The proposed amendment would delete the 2-year term requirement in the Charter and provide that terms for DRB members shall be set by ordinance.

Note that, as of now, no decision of the DRB should be impacted by the conflict because it has been less than two years since adoption of the 2022 ordinance making this change to the municipal code.

6. Election Dates - Revenue Bonds?

State law prohibits special elections within a certain number of days of the national election in November. Therefore, if Council decides to move forward with the proposed ordinance setting an election in 2024, possible dates would be October 1 or December 10.

Charter Section 8.5(d) allows the Town to issue revenue bonds only upon approval at an election. This conflicts with state laws allowing municipal debt to be repaid via revenue bonds without an election subject to certain restrictions. The TABOR amendment to the Colorado Constitution generally requires voter authorization to raise taxes or to pledge tax money to repay debt in future fiscal years. However, a vote may not be required if the debt is to be paid only via revenue, not taxes. For example, a water treatment plant upgrade could be financed via a revenue bond where the debt would be repaid from future water fees from customers rather than taxes.

Updating this provision to match state law would give the Town greater flexibility to pursue financing of capital improvements and public infrastructure at lower borrowing costs.

The draft ordinance does not presently address this issue because TABOR limits the dates on which such measures may be considered. It could potentially be set for an election either in November 2025 or at the regular town election in June 2025. If Council decides not to proceed with the other five issues mentioned above either in October or December 2024, it might consider setting the election in 2025 and adding this additional amendment.

WORKSHOP DISCUSSIONS

The meeting on June 12, 2024, includes a workshop to discuss the proposed charter amendments. No formal action or vote should occur. Rather, following discussion among Council and the public, the Council should give staff direction on if, how and when to move forward with any proposed charter amendments for consideration at a future meeting.

**RESOLUTION OF THE TOWN COUNCIL
TOWN OF MOUNTAIN VILLAGE, COLORADO
TO ADOPT Amended PROCEDURES FOR MAINTAINING THE VOTER
REGISTRATION LIST
Resolution No. 2009-0820-12**

WHEREAS, the Town Council of the Town of Mountain Village, Colorado (the "Council") desires to adopt amended policies regarding procedures for maintaining the voter registration list for the Town of Mountain Village (the "Town") to be known as the "Town of Mountain Village Procedures for Maintaining the Voter Registration List", and;

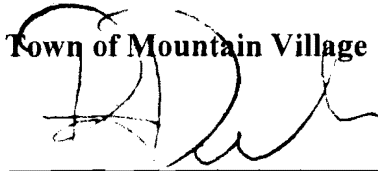
WHEREAS, following adoption of the "Town of Mountain Village Procedures for Maintaining the Voter Registration List" a copy of the policy shall be kept on file and open for inspection by the public in the office of the Town Clerk of the Town.

NOW, THEREFORE, BE IT RESOLVED, that the Council hereby approves and adopts the "Amended Town of Mountain Village Procedures for Maintaining the Voter Registration List" (attached), and directs and authorizes the Town Clerk's office to implement the Procedures for Maintaining the Voter Registration List to facilitate the Town's election process in the manner set forth in said document;

BE IT FURTHER RESOLVED, that the Town's previous policy regarding voter registration procedures is hereby revoked and repealed.

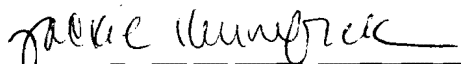
This Resolution shall take effect immediately upon its adoption.

This Resolution adopted by the Council at a public meeting held on this 13th day of August, 2009.

Town of Mountain Village


By: Robert H. Delves, Mayor

ATTEST:



Jackie Kennefick, Sr. Deputy Clerk

AMENDED TOWN OF MOUNTAIN VILLAGE PROCEDURES FOR MAINTAINING THE VOTER REGISTRATION LIST

POLLING PLACE

The Town Charter mandates that a Polling Place shall be open from 7:00 a.m. to 7:00 p.m. during the election day, Town Hall and more specifically, the Town Clerk's, Senior Deputy Town Clerk's and/or Deputy Town Clerk's office will fulfill that obligation. The Polling Place will be conducted as it is every other day prior to the election allowing electors to come in and vote, receive replacement ballots and any other normal election function with the exception that voting will be available for the extended hours of 7:00 a.m. to 7:00 p.m.

VOTER REGISTRATION REQUIREMENT:

Any person who is an eligible Town of Mountain Village elector as defined in the Town Charter must register to vote with the Mountain Village Town Clerk at least twenty-nine (29) days prior to a scheduled Town election, to be eligible to vote in that scheduled Town election and subsequent Town elections. The Town will also recognize as eligible to vote those residents who have resided in the Mountain Village for at least thirty (30) consecutive days prior to a scheduled Town election, and who have registered to vote with the San Miguel County Clerk's office at least twenty-nine (29) days prior to a scheduled Town election.

VOTER REGISTRATION ELIGIBILITY:

Legal Residents and Non-resident Property Owners are entitled to vote in Town of Mountain Village Municipal Elections. A Legal Resident is defined as any person who maintains his or her principal residence within the Town, to which he or she intends to return whenever absent. The requirements for legal residents to be eligible to vote in Town of Mountain Village Municipal elections are as follows:

- 1) register with the Town Clerk or the San Miguel County Clerk at least twenty-nine (29) days prior to any Town election; and
- 2) have been legal residents of the Town for at least thirty (30) consecutive days immediately prior to the election; and
- 3) will have been at least eighteen (18) years of age on the date of the election.

A Non-resident Property Owner is defined as an owner of real property located within the boundaries of the Town who are not legal residents of the Town but who may become registered electors of the Town and be qualified to vote in Town of Mountain Village municipal elections provided they meet the following requirements:

- 1) register with the Town Clerk, or the San Miguel County Clerk if they are residents of San Miguel County, at least twenty-nine (29) days prior to any Town election;
- 2) have been owners of record of real property within the Town for at least thirty (30) consecutive days immediately prior to the date of the election;
- 3) have during that time owned a minimum of fifty percent (50%) of the fee title interest in the subject real property;
- 4) will be at least eighteen (18) years of age at the time of the election; and
- 5) are natural persons, meaning that they hold title to their property in their natural names, not in the name of a trust, partnership, corporation, etc.

MAINTENANCE OF VOTER REGISTRATION LIST:

A Voter Registration List will be maintained to facilitate the Town's election process, including, but not limited to, the mailing of all mail ballot packages. The Voter Registration List will be comprised of the voter's name, permanent mailing address (the United States Post Office will not forward ballots), residency information, registration information as to whether the voter is registered with San Miguel County or the Town of Mountain Village, Mountain Village physical address, lot number, information as to whether or not the voter is a property owner and how title is held on their property. All changes to voter registration information must be delivered to the Town Clerk's office in writing in order for the information to be updated on the Town's Voter Registration List.

To assist with this effort a postage paid voter verification card will be mailed to every elector no less than forty five (45) days prior to every regular Mountain Village municipal election requesting that the elector confirm existing information in the Town's voter registration records including permanent mailing address, physical Mountain Village address, resident or non-resident status and how title to the elector's property is held if the elector is a non-resident property owner, and further requesting that the elector provide the Town Clerk's office with corrected information if the current information is incorrect. An elector's failure to provide the requested information shall not prevent the Town Clerk from mailing a ballot to that elector. The Town Clerk will retain a file of these records in accordance with the Town's adopted retention schedule.

The Town Clerk will conduct an audit of the Town's Voter Registration List not less than twenty five (25) days prior to every Mountain Village municipal election which shall consist of cross checking the Town Voter Registration List with the records of the San Miguel County Clerk and Recorder and the San Miguel County Assessor in order to validate the eligibility of non-resident property owners. The Town Clerk will conduct a second audit the day of the election which will continue through the close of the polls on election day to confirm eligibility of all non-resident property owners.

PURGING OF VOTER REGISTRATION LIST:

Records will be kept as to the most recent date a registered voter has voted in a Mountain Village municipal election. If the registered voter fails to vote in two (2) consecutive

municipal elections, or for four (4) consecutive years, whichever period is longer, that Voter's name will be purged from the Voter Registration List. Also, when the sale or transfer of Mountain Village real property is discovered through the audit process or otherwise, the Voter Registration List will be examined to determine if the seller(s) or transferor(s) of that property are registered non-resident voters. If it is determined that the seller(s) or transferor(s) are registered non-resident voters who have become ineligible as a result of the transfer, and it is further determined that the seller(s) or transferor(s) do not own other real property in the Mountain Village with at least a 50% fee title interest in such other real property as natural persons, those registered voters will be purged from the Voter Registration List immediately. Upon purging the names of the registered voters for any reason, the Town Clerk shall mail notification to those registered voters notifying them that they are no longer eligible to vote in Town municipal elections and the reason for their ineligibility.

08/20/09

kem

Tuesday, December 10, 2024

Last day to become a Legal Resident	10-Nov-24	30 days
Registration Deadline	11-Nov-24	29 days
First Day to Mail Ballots	18-Nov-24	22 days
Last Day to Mail Ballots	25-Nov-24	15 days

Tuesday, October 1, 2024

Last day to become a Legal Resident	1-Sep-24	30 days
Registration Deadline	2-Sep-24	29 days
First Day to Mail Ballots	9-Sep-24	22 days
Last Day to Mail Ballots	16-Sep-24	15 days

STATEMENT OF AUTHORITY

1. This Statement of Authority relates to an entity named _____, and is executed on behalf of the entity pursuant to the provisions of Section 38-30-172, C.R.S.

2. The type of entity is a:

<input type="checkbox"/> corporation	<input type="checkbox"/> registered limited liability partnership
<input type="checkbox"/> nonprofit corporation	<input type="checkbox"/> registered limited liability limited partnership
<input type="checkbox"/> limited liability company	<input type="checkbox"/> limited partnership association
<input type="checkbox"/> general partnership	<input type="checkbox"/> government or governmental subdivision or agency
<input type="checkbox"/> limited partnership	<input type="checkbox"/> trust
<input type="checkbox"/> other: _____	

3. The entity is formed under the laws of: _____

4. The mailing address for the entity is: _____

5. The name or position of the person(s) authorized to execute instruments conveying, encumbering, or otherwise affecting title to real property on behalf of the entity is: _____

6. The authority of the foregoing person(s) to bind the entity is not limited limited as follows:

7. Other matters concerning the manner in which the entity deals with interests in real property:

Executed this _____ day of _____, 20____.

Signature (Type or Print Name Below)

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by
_____.

Witness my hand and official seal.

Notary Public
My commission expires: _____

ORDINANCE NO. 2024-__

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,
COLORADO CALLING A SPECIAL ELECTION FOR ~~JULY 9, 2024~~ _____, AND
SUBMITTING
BALLOT QUESTIONS TO QUALIFIED ELECTORS AT THE SPECIAL ELECTION
TO AMEND THE TOWN OF MOUNTAIN VILLAGE HOME RULE CHARTER**

WHEREAS, the Town of Mountain Village (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Town of Mountain Village Home Rule Charter of 1995, as amended (“Charter”); and

WHEREAS, pursuant to section 2.2(b) of the Charter, the Town Council may call a special election at least 60 days in advance of the election by ordinance, which sets forth the special purpose of such election; and

WHEREAS, pursuant to section 11.8 of the Charter, the Charter may be amended at any time in the manner provided in C.R.S. § 31-2-210, as amended; and

WHEREAS, Section 2.1 of the Charter provides that elections shall be governed by the Colorado Municipal Election Code of 1965 (the “Municipal Election Code”); and

WHEREAS, the Town Council finds and determines that the Town was designed as a resort community and, as such, it was known that there would be a significant proportion of the homes therein owned as “second homes,” which is why the Charter provides that, in addition to residents of the Town, owners of property including second homes may vote in municipal elections; for various reasons since the Town’s founding it has become common to own a home through a limited liability company (“LLC”) or similar entities; that said form of home ownership is very popular in the Town today, but this form of ownership precludes voting in municipal elections in the Town; and that it is the best interests of the Town, its residents, and owners of real property therein to establish voting rights to homeowners with indirect ownership; and

WHEREAS, the Town Council find and determines that because the Town is a resort community and there are a significant number of second homes, many eligible electors are not present for regular municipal elections occurring on the last Tuesday of June in odd-numbered years; and that to ensure as many eligible voters as possible are able to participate in municipal elections, it is in the best interests of the Town and all eligible electors to change the date of regular municipal elections to the last Tuesday in July in odd-numbered years; and

WHEREAS, the Charter is silent as to the effective date of an ordinance; under Colorado statutes applicable to statutory towns with only one reading of an ordinance the effective date depends on the date of publication; the Charter requires two readings of an ordinance, but the Charter’s requirements for publication differ based on whether or not changes are approved on second reading; as a result, there is potential for confusion concerning the effective dates of ordinances; and the Council finds that it is in the best interests of the Town and the public to clarify when ordinances become effective; and

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WHEREAS, the Colorado Constitution and the Charter provide citizens with a right of referendum, and because the effective date of an ordinance may be suspended until the outcome of a referendum election, the Charter should be clear that the deadline for a referendum should fall before the effective date of any such ordinance; and

WHEREAS, the Town Council finds and determines that the internet has become a common and convenient source of information for the public and that Section 5.9 of the Charter, which requires publishing ordinances and notices in a newspaper, requires unnecessary costs and delay and should be replaced to authorize publication via the Town's official website; and

WHEREAS, Article XII of the Charter provides for the establishment of the Design Review Board, and Section 12.1(b)(2) addresses the terms of Design Review Board Members; and

WHEREAS, the Town Council has previously determined in the enactment of Ordinance 2022-03 that the Town would benefit from the experience and institutional knowledge of members of the Design Review Board and that terms of Board Members should be four years, and the Council therefore finds that it would be in the best interests of the Town to amend Section 12.1(b)(2) to provide Council with the power and flexibility to establish and amend the length of terms by Ordinance; and

WHEREAS, the Town Council finds and determines that it is in the best interests of the Town and the public to call a special election to submit ballot questions to eligible electors to amend the Charter to address these issues as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO, as follows:

Section 1. Recitals. The above recitals are hereby incorporated as findings of the Town Council in support of the enactment of this Ordinance.

Section 2. Election Call. The Town Council hereby calls a special election of qualified electors to be conducted on Tuesday, ~~July 9, 2024~~, pursuant to the authority and requirements of the Charter and C.R.S. § 31-2-210.

Section 3. Proposed Amendments. At the ~~July 30, 2024~~, special election, questions shall be submitted to the qualified electors of the Town that will allow said electors to determine whether to: (1) amend Section 2.3 of the Charter to establish voting rights in municipal elections to homeowners with indirect ownership, ~~e.g., i.e.,~~ ownership via ~~A corporate entity~~ an LLC or trust; (2) amend Section 2.2 of the Charter to change the date of the regular municipal election from the last Tuesday in June to the last Tuesday in July of odd-numbered years; and (3) amend Section 5.2 of the Charter to establish that ordinances become effective 14 days after publication following second reading and amend Section 5.4 of the Charter to clarify when the referendum deadline would be based on that effective date. These proposed amendments to the Charter are as follows (with material to be amended shown in redline):

Section 2.3. VOTER QUALIFICATIONS

c) **Qualifications of Non-resident Property Owners.** Natural persons owning ~~Owners of~~ real property located within the boundaries of the Town who are not legal residents of the Town may become

registered electors of the Town and as such shall be qualified to vote for a municipal candidate, and on any municipal issue at any Town election, so long as they:

- 1) register with the Town Clerk, or the San Miguel County Clerk if they are residents of San Miguel County, at least twenty-nine (29) days prior to any Town election;
- 2) have been owners of record of real property within the Town for at least thirty (30) consecutive days immediately prior to the date of the election;
- 3) have during that time owned a minimum of fifty percent (50%) of the fee title interest in the subject real property; and
- 4) will be at least eighteen (18) years of age at the time of the election; ~~and~~
- 5) ~~are natural persons.~~

Owners of residential real property located within the boundaries of the Town that are not natural persons, including but not limited to corporations, limited partnerships, limited liability companies, and trusts, may designate at least one but no more than two natural persons, regardless of how many separate parcels may be owned by such owner, to act on behalf of such owner as registered electors of the Town and be qualified to vote for a municipal candidate and on any municipal issue at any Town election, so long as:

- 1) The designated natural person(s) must register with the Town Clerk at least twenty-nine (29) days prior to the date of the election; and
- 2) The owner must be an owner of record of at least a 50% interest in the residential real property within the Town for at least thirty (30) consecutive days immediately prior to the date of the election, provided that if two entities meet this requirement for a single parcel then each may only designate one natural person to vote; and
- 3) Each natural person designated by such owner must have owned at least a 50% interest in the entity that is the owner for at least thirty (30) consecutive dates immediately prior to the date of the election, or if the owner is a trust then the trustee or trustees may designate only one natural person for each qualifying trust; and
- 4) Each natural person so designated must be at least eighteen (18) years of age at the time of the election.

Any real property owned by natural persons will qualify for the purposes described above regardless of whether it is intended for residential or commercial use, but only residential property ownership will qualify LLCs or trusts for voting rights. The fee ownership in such property shall include, without limitation, ownership interest in any platted parcel of land, or townhome, or condominium unit, as well as ground leasehold real estate interests. Such property interest shall not, however, include Ownership of parking spaces, religious or other charitable facilities, hotel units, roads, or common areas intended for non-profit use. In the case of condominium, townhome, and similar common interest ownership regimes, the commonly owned areas shall not be deemed property interests separate from the ownership interests

to which they may be appurtenant, and no person owning, or belonging to, any association, partnership or other entity formed for the purposes of managing or owning such common areas shall, because of that fact alone, become a registered elector. To be an “owner of record” there must be a deed or other instrument recorded with the San Miguel Clerk and Recorder reflecting such ownership.

f) **Only One Vote Per Person.** No person shall be entitled to cast more than one vote in any election, regardless of whether or not he or she may be a qualified legal resident and/or own one or more parcels of qualified real property and/or be designated by a property owner that is not a natural person.

Section 2.2. DATES AND TIMES FOR ELECTION.

a) **Regular Municipal Elections** of the Town shall be held on the last Tuesday in June-July of odd-numbered years.

Section 5.2. PROCEDURE FOR ORDINANCES.

f) Any ordinance may be amended at any time before it is finally approved by the Town Council. ~~If it is amended in substance,~~ The Ordinance shall be published in full within seven (7) days after its final passage, unless otherwise provided in this Charter.

h) Except for emergency ordinances enacted pursuant to Section 5.8 below, ordinances shall become effective fourteen (14) days after publication following second reading.

Section 5.4. PROCEDURE FOR REPEALING ORDINANCES BY REFERENDUM.

Repeal of an ordinance by referendum shall be initiated according to the procedures set forth in Sections 5.3(a) and (b), except that the referendum petition must be filed with the Town Clerk prior to the date that the subject ordinance becomes effective pursuant to Section 5.2(h). Any other matter recognized by state law as appropriate for referendum shall be initiated according to procedures set forth in Section 5.3(a) and (b).

Section 5.9. PUBLICATION OF ORDINANCES AND OTHER PUBLIC NOTICES.

Ordinances and other public notices as required in this Charter may be published ~~in a newspaper of general circulation in the Town~~ on the official website of the Town or posted in at least three (3) public places within the Town and at the office of the Town Clerk.

Section 12.1 DESIGN REVIEW BOARD.

b) DRB Membership.

- 1) The DRB shall consist of seven (7) members, all appointed by the Town Council.
- 2) The terms for ~~a-members~~ of the DRB shall be as established by Ordinance of the Town Council, two (2) years, with three (3) members appointed in odd numbered years and four (4) members appointed in even numbered years.

Section 4. Official Ballot Questions. At the July 9, 2024, special election, there shall be submitted to the qualified electors the following ballot questions:

Ballot Question No. 1

Voter Qualification of Non-Natural Persons

Shall Section 2.3 of the Town of Mountain Village Home Rule Charter be amended to allow owners of residential real property within the Town that are not natural persons, including ~~LLC corporate entities~~ and trusts, to designate a natural person to act on behalf of such owner as a registered elector and be qualified to vote in municipal elections so long as:

the designated natural person registers with the Town Clerk at least 29 days prior to the date of the election;

the owner is an owner of record of at least a 50% interest in the residential real property for at least 30 consecutive days immediately prior to the date of the election, provided that if two entities meet this requirement for a single parcel then each may only designate one natural person to vote;

each designated natural person has owned at least a 50% interest in the entity that is the owner for at least 30 consecutive days immediately prior to the date of the election, or if the owner is a trust, then the trustee(s) may designate only one natural person for each qualifying trust; and

each designated natural person is at least 18 years of age at the time of the election?

YES/FOR _____ NO/AGAINST _____

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Ballot Question No. 2

Change Regular Municipal Election to July

Shall Section 2.2 of the Town of Mountain Village Home Rule Charter be amended to change the date of regular municipal elections from the last Tuesday in June to the last Tuesday in July of odd-numbered years?

YES/FOR _____ NO/AGAINST _____

Ballot Question No. 3

Clarification of Ordinance Effective Date and Referendum Deadline

Shall Sections 5.2 and 5.4 of the Town of Mountain Village Home Rule Charter be amended to establish that, except for emergency ordinances enacted pursuant to Section 5.8, ordinances shall become effective 14 days after publication following second reading and that a referendum petition challenging any ordinance must be filed with the Town Clerk prior to the date that the subject ordinance becomes effective?

YES/FOR _____ NO/AGAINST _____

Ballot Question No. 4

Publication of Ordinances and Public Notices on the Town Website

Shall Section 5.9 of the Town of Mountain Village Home Rule Charter be amended to authorize publication of ordinances and public notices via the Town's official website rather than a newspaper?

YES/FOR _____ NO/AGAINST _____

Ballot Question No. 5

Design Review Board

Shall Section 12.1(b)(2) of the Town of Mountain Village Home Rule Charter be amended to provide that the Town Council shall establish the terms of Design Review Board members by Ordinance?

YES/FOR _____ NO/AGAINST _____

Section 5. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

Section 6. Safety Clause. The Town Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 7. Effective Date. This Ordinance shall become effective on _____, 2024, and shall be recorded in the official records of the Town kept for that purpose and shall be authenticated by the signatures of the Mayor and the Town Clerk.

Section 8. Public Hearing. A public hearing on this Ordinance was held on the ___ day of _____, 2024, in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado 81435.

Section 9. Publication. The Town Clerk or Deputy Town Clerk shall post and publish notice of this Ordinance as required by Article V, Section 5.9 of the Charter.

DRAFT

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INTRODUCED, READ, AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 21st day of March, 2024.

TOWN OF MOUNTAIN VILLAGE:

TOWN OF MOUNTAIN VILLAGE,
COLORADO, A HOME-RULE
MUNICIPALITY

By: _____
Martinique Prohaska, Mayor

ATTEST:

Susan Johnston, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado this __ day of _____, 2024.

TOWN OF MOUNTAIN VILLAGE:

TOWN OF MOUNTAIN VILLAGE,
COLORADO, A HOME-RULE
MUNICIPALITY

By: _____
Martinique Prohaska, Mayor

ATTEST:

Susan Johnston, Town Clerk

Approved as to Form:

David McConaughy, Town Attorney

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I, Susan Johnston, the duly qualified and acting Town Clerk of the Town of Mountain Village, Colorado ("Town") do hereby certify that:

1. The attached copy of Ordinance No. 2024-__ ("Ordinance") is a true, correct, and complete copy thereof.
2. The Ordinance was introduced, read by title, approved on first reading and referred to public hearing by the Town Council the Town ("Council") at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on March 21, 2024, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Martinique Prohaska, Mayor				
Scott Pearson, Mayor Pro-Tem				
Harvey Mogenson				
Peter Duprey				
Jack Gilbride				
Tucker Magid				
Huascar Gomez				

3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on _____, 2024 in accordance with Section 5.2(d) of the Town of Mountain Village Home Rule Charter.
4. A public hearing on the Ordinance was held by the Town Council at a regular meeting of the Town Council held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on _____, 2024. At the public hearing, the Ordinance was considered, read by title, and approved without amendment by the Town Council, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Martinique Prohaska, Mayor				
Scott Pearson, Mayor Pro-Tem				
Harvey Mogenson				
Peter Duprey				
Jack Gilbride				
Tucker Magid				
Huascar Gomez				

5. The Ordinance has been signed by the Mayor, sealed with the Town seal, attested by me as Town Clerk, and duly numbered and recorded in the official records of the Town.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this ___ day of _____, 2024.

Susan Johnston, Town Clerk

|

(SEAL)

DRAFT

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From: [John McIntyre](#)
To: [mvclerk](#)
Cc: [Paul Wisor](#)
Subject: voting changes
Date: Tuesday, April 30, 2024 5:03:50 PM

Caution: External Message - Please be cautious when opening links or attachments in email.

Hi

We support LLC property owners having the right to vote in council elections.

Urgent action should also be taken to implement electronic voting as snail mail is totally useless for overseas second home property owners like ourselves who reside 7 months of the year in Australia as well as travelling internationally.

Kind regards

John and Catherine McIntyre

“Eureka”

106 Gold Hill Court

Mountain Village, Telluride

Colorado

EMAIL : john.mcintyre@outlook.com.au

www.vrbo.com/188870

From: [Ed E](#)
To: [council](#)
Subject: Feedback on Proposed Charter Amendments
Date: Thursday, June 6, 2024 12:31:41 PM

Caution: External Message - Please be cautious when opening links or attachments in email.

I applaud you for your effort to potentially allow voting rights for homeowners who own their property in the name of an LLC or Trust. We designed and built our dream home in MV and originally held it in our names. But for estate planning purposes, we moved it to an LLC, owned by our Living Trust. We were very disappointed when we could no longer vote, but still paid taxes! Please do your best to get this passed so locals like us can vote just like any other homeowner. Thanks for all you do for our wonderful community.

Ed & Vale Elkins
131 AJ Dr

From: [tkunda](#)
To: [council](#)
Subject: Feedback on Proposed Charter Amendments
Date: Thursday, June 6, 2024 6:03:44 PM

Caution: External Message - Please be cautious when opening links or attachments in email.

I would like to lend my support to the proposal allowing property owners holding property in LLCs or other entities the ability to vote like other non-resident property owners. My own situation provides a useful example. I purchased my home in Mountain Village in 2012 in my wife's and my individual names. Since that time I have been active in the community. I have served as a board member of TMVOA since 2016, I am active in the Ski and Golf Club, I support various organizations including the hospital, the museum, the mountain club and others. Along with Johnnie Stevens I am working on producing a documentary about Telluride and Mountain Village. We are also working on a historical preservation program to digitize and upload to the library the personal archives of Senior Mahoney, Johnnie and others who were involved in the formation of our community.

In 2021 I redid our estate plan and under the advice of my attorney I moved our Mountain Village home into a Trust. It is purely a legal designation that has had absolutely no effect on my involvement and passion for this community. I am the same person I was and I am even more involved in the community since changing the legal documents for my home. I believe that it would be right and proper for me to be able to vote in local elections just as I did before 2021.

Tim Kunda
311 Fairway Drive
Mountain Village, CO 81435
tim@kundabev.com

From: [brent.ramsey](#)
To: [council](#)
Subject: Feedback on Proposed Charter Amendments
Date: Thursday, June 6, 2024 5:55:31 PM

Caution: External Message - Please be cautious when opening links or attachments in email.

I am in favor of the amendments.

Brent Ramsey
211 Benchmark
918-691-6656

From: [Don Smith](#)
To: [council](#)
Subject: Feedback on Proposed Charter Amendments
Date: Thursday, June 6, 2024 9:07:29 AM

Caution: External Message - Please be cautious when opening links or attachments in email.

I am 100% in favor of allowing properties that are owned in an LLC or by Trust to have 1 vote in the local elections. For the 9 years we owned our condo, we owned it personally. As you know, we could vote on local matters. I always thought it was great that part-time homeowners could have a say in the direction of how the town was going, a true democracy.

When we bought our house, we wanted it to stay in our family for generations to come so we put it into a Trust for our kids so that they would not have to pay estate tax on the house. We felt if they had to pay 60% of the value in estate tax they may chose to sell the place instead of continuing to use it with their own kids at some point.

We totally understand that the locals should have a say in their government. If their are 2 locals in a unit, then they have 2 votes. It is my understanding that a large portion of the properties are owned in LLC's or Trusts and as such a large portion of the tax base and part-time homeowners are currently being excluded from voting and serving on boards. 1 vote per house owned by an LLC or Trust seems like a fair balance.

Thanks,
Don Smith
101 Autumn Lane
Sent from my iPad

From: [Ellen Yarrell](#)
To: [council](#)
Subject: Feedback on Proposed Charter Amendments
Date: Thursday, June 6, 2024 9:06:24 AM

Caution: External Message - Please be cautious when opening links or attachments in email.

Thank you for the notice. Will the meeting 6/12 be available on Zoom? I previously submitted my comments about the non-resident trust request to vote. The reason my fractional interest deed at The Franz Klammer Lodge is in the Yarrell Family Trust is to allow my heirs to probate my estate in Texas only. As a 1/5 owner, I reside in Mountain Village about 10 weeks a year, I pay proportional property taxes, I support both film festivals and spend money with businesses. The trust structure does not change my interest and support of TMVOA and its projects. BTW- I am pleased with the commitment to the trails additions and upgrades,

Thank you,

Ellen Yarrell

From: [Heather Knox](#)
To: [council](#)
Subject: Public Comments for Work Session
Date: Friday, June 7, 2024 10:40:18 AM

Caution: External Message - Please be cautious when opening links or attachments in email.

Mountain Village Town Council -

Thank you for holding a work session on the proposed Charter Amendments. I have specific concerns about the language in **1. Voting**. There are contradictions, and I hope my concerns on the language and the contradictions will be addressed and revised.

Pages 1-3 outlining the ordinance are numbered, but the pages in the proposed ordinance are not numbered so will refer to the pages as they appear in order.

The language in the opening page, page 4 states:

- WHEREAS, the Town Council finds and determines... (end of paragraphs) “that it is the best interests of the Town, its residents, and owners of real property therein to establish voting rights to **homeowners** with indirect ownership”;
- Page 6, section 2.3 VOTER QUALIFICATIONS under the 2nd (4) “Any real property will qualify for the purposes described above **regardless of whether it is intended for residential or commercial use**. The fee ownership in such property shall include, without limitation, **ownership interest in any platted parcel of land**, or townhome, or condominium unit, as well as **ground leasehold real estate** interests.”...

Any platted parcel of land includes vacant land. Those who own vacant land, commercial or residential, are not **homeowners** as stated in the goals of the amendment. Does the council believe that commercial vacant landowners are entitled to the same voting rights as homeowners? Homeowners are residents – either parttime or full-time – and they typically have strong ties to the Mountain Village community. Most commercial vacant landowners are holding the property as an investment with little commitment to the best interests of the town residents.

- Another concern on Page 6, section 2.3 VOTER QUALIFICATIONS under the 1st (4):

“Owners of real property located within the boundaries of the Town that are not natural persons, including but not limited to **corporations**, limited partnerships, limited liability companies, and trusts, may designate at least one but no more than two natural persons, regardless of how many separate parcels may be owned by such owner, to act

on behalf of such owner as registered electors of the Town and be qualified to vote for a municipal candidate and on any municipal issue at any Town election”...

Does the Mountain Village Town Council believe that a corporation owning vacant commercial land have of the “the best interests of the Town, its residents, and owners”?

If the language specification of “commercial use” and “ground leasehold real estate interests” are removed from the proposed ordinance, it seems it would open the town up to a lawsuit because it is excluding that portion of “Non-resident Property Owners owning real property located within the boundaries of the Town”. LLCs and Corporations have funds to litigate. If there is a legal challenge to this amendment, will the Mountain Village taxpayers pay the legal fees to defend it? Paying for litigation is not in the best interest of the residents.

A stated goal of the Mountain Village Master Plan is to ensure “a high quality of life for all Mountain Village residents”. The proposed voting amendment to the town charter does not align with the Mountain Village Master Plan.

Thank you very much for considering my comments. I hope the Mountain Village Town Council makes a decision that is in the best interests of those who elected him.

Heather Knox

Hknox9500@gmail.com

(970)729-3362

327 Adams Ranch Road #402

Mountain Village, CO 81435