MEMORANDUM

TO:    Mead Board of Trustees

FROM:    Mary Strutt, Town Clerk

DATE:    September 25, 2017

RE:    Recall Election Process

The Recall Process is found in CRS 31 – 4 – 501 through 507.

1. Recall Petition is submitted to the clerk’s office to be approved as to form

2. The Clerk approves the Petition as to form (2 business days). CRS 31-4-502 (c)  8/25/2017

3. Petitioners gather signatures and return to Clerk’s Office (within 60 days). CRS 31-4-503(2)(a)  8/29/2017

4. Clerk confirms the number of signatures and that the signers are registered electors (5 business days). CRS 31-4-503(3)(a)  9/06/2017

5. Protests may be filed within 15 days of petition being submitted. CRS 31-4-503(3)(b)  9/13/2017

6. Protest hearing must be concluded within 30 days of petition’s submittal. CRS 31-4-503(3)(b)  9/28/2017

7. Protest hearing notice to be mailed out with hearing to be set no later than 5 and no more than 10 days out. CRS 31-4-503(3)(b)  9/22/2017 continued to 9/27/2017

8. Hearing officer has 5 days to issue written determination of sufficient or not. CRS 31-4-503(3)(b)  10/2/2017

9. If petition is determined sufficient *, Clerk submits to BOT at their next meeting to set election date and type of election. CRS 31-4-503(4)  10/09/2017

10. If submitted to BOT within 180 days of regular election, it shall be held as part of the regular election. CRS 31-4-503(4)

    Regular Election 4/03/2018

    180 days prior to the Regular Election is 10/5/2017

*If petition is not sufficient, it may be withdrawn and amended, and returned to the Clerk within 15 days. The Clerk has 4 business days to determine sufficient or not sufficient. Protest period is 5 business days. CRS 31-4-503(3)(c)
31-4-501. Officers subject to recall. Every elected officer of any municipality of the state of Colorado may be recalled from office at any time by the registered electors of the municipality in the manner provided in section 4 of article XXI of the state constitution. The provisions of this part 5 shall apply to all municipalities except to the extent that a municipality has adopted provisions pursuant to article XX or XXI of the state constitution inconsistent with this part 5.


Editor's note: This section is similar to former § 31-5-201 as it existed prior to 1975.

31-4-502. Procedure - petition - signatures. (1) The procedure to effect the recall of an elective officer of a municipality shall be as follows:

(a) (I) A petition containing the requisite number of signatures under paragraph (d) of this subsection (1) shall be filed in the office of the municipal clerk, demanding an election of a successor to the officer named in the petition. Each petition shall designate by name and address not less than three nor more than five persons, referred to in this section as the "committee", who shall represent the signers thereof in all matters affecting the same. The petition shall clearly indicate the name of the municipality and the name of the officer sought to be recalled. The petition shall include the name of only one person to be recalled. The petition shall contain a general statement, in not more than two hundred words, of the grounds on which the recall is sought, which statement shall be intended for the information of the electors of the municipality. Such electors shall be the sole and exclusive judges of the legality, reasonableness, and sufficiency of the grounds assigned for recall, and said grounds shall not be open to review.

(II) The signatures to a recall petition need not all be on one sheet of paper. At the top of each page shall be printed, in bold-faced type, the following:

WARNING:
IT IS AGAINST THE LAW:

For anyone to sign this petition with any name other than one's own or to knowingly sign one's name more than once for the same measure or to sign such petition when not a registered elector.

Do not sign this petition unless you are a registered elector. To be a registered elector, you must be a citizen of Colorado and registered to vote in (name of municipality).

Do not sign this petition unless you have read or have had read to you the proposed measure in its entirety and understand its meaning.

(b) Directly following the warning in paragraph (a) of this subsection (1) shall be printed
in bold-faced type the following:

Petition to recall (name of person sought to be recalled) from the office of (title of office).

(c) No recall petition shall be circulated until it has been approved as meeting the requirements of this section as to form. The clerk shall approve or disapprove a petition as to form by the close of the second business day following submission of the proposed petition. The clerk shall mail written notice of such clerk’s action to the officer sought to be recalled on the day that any such petition is approved.

(d) The petition shall be signed by registered electors entitled to vote for a successor of the incumbent sought to be recalled equal in number to twenty-five percent of the entire vote cast for all the candidates for that particular office at the last preceding regular election held in the municipality. If more than one person is required by law to be elected to fill the office of which the person sought to be recalled is an incumbent, then the recall petition shall be signed by registered electors entitled to vote for a successor to the incumbent sought to be recalled equal in number to twenty-five percent of the entire vote cast at the last preceding regular election held in the municipality for all candidates for the office to which the incumbent sought to be recalled was elected as one of the officers thereof, such entire vote being divided by the number of all officers elected to such office at the last preceding regular election held in the municipality.


Editor's note: This section is similar to former § 31-5-202 as it existed prior to 1975.

31-4-503. Petition in sections - signing - affidavit - review - tampering with petition. (1) Any recall petition may be circulated and signed in sections, but each section shall contain a full and accurate copy of the title and text of the petition.

(2) (a) The signatures need not all be on one sheet of paper. All such recall petitions shall be filed in the office of the municipal clerk within sixty days from the date on which the municipal clerk approves the petition as to form.

(b) Any recall petition shall be signed only by registered electors using their own signatures, after which each such elector shall print or, if such elector is unable to do so, shall cause to be printed such elector's legal name; the residence address of such person, including the street and number, if any; and the date of signing the same.

(c) To each such petition or section thereof shall be attached an affidavit of the person who circulated the petition stating the affiant's address, that the affiant is eighteen years of age or older, that the affiant circulated the said petition, that the affiant made no misrepresentation of the purpose of such petition to any signer of the petition, that each signature on the petition was affixed in the affiant's presence, that each signature on the petition is the signature of the person whose name it purports to be, that to the best of the knowledge and belief of the affiant each of the persons signing said petition was at the time of signing a registered elector, and that the affiant neither has paid nor shall pay and that the affiant believes that no other person has so paid or shall pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to sign such petition.
(d) Any disassembly of the petition which has the effect of separating the affidavits from the signatures shall render the petition invalid and of no force and effect.

(3) (a) The municipal clerk shall issue a written determination that a recall petition is sufficient or not sufficient by the close of business on the fifth business day after such petition is filed or, if such day is not a regular business day, on the first regular business day thereafter, unless a protest has been filed prior to that date. The clerk shall forthwith mail a copy of such written determination to the officer sought to be recalled and to the committee. Any such petition shall be deemed sufficient if the municipal clerk determines that it was timely filed, has attached thereto the required affidavits, and was signed by the requisite number of registered electors of the municipality within sixty days following the date upon which the clerk approved the form of the petition. The clerk shall not remove the signature of an elector from the petition after such petition is filed. If a petition is determined by the clerk to be not sufficient, the clerk shall identify those portions of the petition that are not sufficient and the reasons therefor.

(b) A protest in writing under oath may be filed in the office of the municipal clerk by some registered elector who resides in the municipality within fifteen days after such petition is filed setting forth specifically the grounds of such protest. Grounds for protest may include, but shall not be limited to, the failure of any portion of a petition or circulator affidavit or petition circulator to meet the requirements of this section. The municipal clerk shall mail a copy of such protest to the officer named in the petition, to the committee named in the petition as representing the signers of the petition, and to the county clerk and recorder, together with a notice fixing a time for hearing such protest not less than five nor more than ten days after such notice is mailed. The county clerk and recorder shall, upon receipt of such notice, prepare a registration list pursuant to section 31-10-205 to be utilized in determining whether such petition is sufficient. Every hearing shall be before the municipal clerk with whom such protest is filed, who shall serve as hearing officer unless some other person is designated by the governing body as the hearing officer, and the testimony in every such hearing shall be under oath. The hearing officer shall have the power to issue subpoenas and compel the attendance of witnesses. Such a hearing shall be summary and not subject to delay and shall be concluded within thirty days after such petition is filed. No later than five days after the conclusion of the hearing, the hearing officer shall issue a written determination of whether the petition is sufficient or not sufficient. If the hearing officer determines that a petition is not sufficient, the hearing officer shall identify those portions of the petition that are not sufficient and the reasons for the insufficiency. The result of such a hearing shall be forthwith certified to the committee and the officer sought to be recalled.

(c) In case the recall petition is not sufficient, it may be withdrawn by a majority of the committee and, within fifteen days after the municipal clerk or hearing officer issues a written determination that the petition is not sufficient, may be amended by the addition of any required information relating to the signers thereof or the attachment of proper circulator affidavits and refiled as an original petition; except that any petition amended and refiled as provided in this paragraph (c) may not again be withdrawn and refiled. The municipal clerk shall issue a written determination that such refiled petition is sufficient or not sufficient within four business days after said petition is filed. Any protest concerning the refiled petition shall be filed within five business days of the date on which such petition was refiled, and any hearing shall be conducted as provided in paragraph (b) of this subsection (3).

(d) The finding as to the sufficiency of any petition may be reviewed by the district court for the county in which such municipality or portion thereof is located upon application of either
the officer sought to be recalled or the officer's representative or a majority of the committee, but such review shall be had and determined forthwith. The sufficiency or the determination of the sufficiency of the petition referred to in this section shall not be held or construed to refer to the grounds assigned in such petition for the recall of the incumbent sought to be recalled from the office thereby.

(4) When such recall petition is determined sufficient, the municipal clerk shall submit said petition, together with a certificate of its sufficiency, to the governing body of such municipality at the first meeting of such body following expiration of the period within which a protest may be filed or at the first meeting of such body following the determination of a hearing officer that a petition is sufficient, whichever is later. The governing body shall thereupon order and fix a date for the recall election to be held not less than thirty days nor more than ninety days from the date of submission of the petition to the governing body by the municipal clerk and determine whether voting in the recall election is to take place at the polling place or by mail ballot; but, if a regular election is to be held within one hundred eighty days after the date of submission of said petition, the recall election shall be held as a part of said regular election; except that, if the officer sought to be recalled is seeking reelection at said regular election, only the question of such officer's reelection shall appear on the ballot. If a successor to the officer sought to be recalled is to be selected at such regular election and the officer sought to be recalled is not seeking reelection, the question of such officer's recall shall not appear on the ballot of such regular election.

(4.5) A recall election pursuant to this part 5 may only be conducted as part of a coordinated election if the content of the recall election ballot is finally determined by the date for certification of the ballot content for the coordinated election to the county clerk pursuant to section 1-5-203 (3), C.R.S.

(5) Any person who willfully destroys, defaces, mutilates, or suppresses any recall petition or who willfully neglects to file or delays the delivery of the recall petition or who conceals or removes any recall petition from the possession of the person authorized by law to have the custody thereof, or who aids, counsels, procures, or assists any person in doing any of said acts commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.


Editor's note: This section is similar to former § 31-5-203 as it existed prior to 1975.

31-4-504. Resignation - vacancy filled - election - ballot - nomination. (1) If any officer resigns by submitting a written letter of resignation to the clerk at any time prior to the recall election, all recall proceedings shall be terminated, and the vacancy caused by such resignation shall be filled as provided by law. If the resignation occurs after the ballots have been prepared or at a time when it would otherwise be impracticable to remove the recall question from the ballot, no votes cast on the recall question shall be counted.

(2) At least ten days before the recall election, the clerk shall give notice of the election in accordance with section 31-10-501. Except as otherwise provided in this part 5, the recall
election shall be conducted and returned and the result of such election declared in all respects as
in the case of regular elections.

(3) (a) On the official ballot at such elections shall be printed, in not more than two
hundred words, the reasons set forth in the petition for demanding his recall, and, in not more
than three hundred words, there shall also be printed, if desired by him, the officer's justification
of his course in office. Any such reasons or justification shall be submitted to the municipal clerk
by the date on which a nominating petition must be filed pursuant to subsection (4) of this
section. If such officer resigns at any time subsequent to the calling of the recall election, the
recall election shall be held, notwithstanding such resignation.

(b) There shall be printed on the official ballot, as to every officer whose recall is to be
voted on, the words, "Shall (name of person against whom recall petition is filed) be recalled
from the office of (title of office)?". Following such question shall be the words "yes" and "no"
on separate lines with a blank space at the right of each in which the voter shall indicate, by
marking a cross mark (X), his vote for or against such recall.

(c) On such ballots, under each question, there shall also be printed the names of those
persons who have been nominated as candidates to succeed the person sought to be recalled, but
no vote cast shall be counted for any candidate for such office unless the voter also voted for or
against the recall of such person sought to be recalled from said office. The name of the person
against whom the petition is filed shall not appear on the ballot as a candidate for the office. All
candidates on the ballot shall be listed in alphabetical order.

(4) (a) Except as otherwise provided in paragraph (b) of this subsection (4), candidates
for the office at a recall election may be nominated by petition as provided in section 31-10-302;
except that nominating petitions may be circulated beginning on the first business day after the
governing body sets the date for the recall election and shall be filed no later than twenty days
prior to such recall election.

(b) Where the governing body of the municipality chooses to conduct the recall election
by mail ballot in accordance with the requirements of section 31-4-503 (4), candidates shall have
not less than ten calendar days beginning on the first calendar day after the governing body sets
the date for the recall election within which to circulate nominating petitions, and such petitions
shall be filed no later than forty-five days prior to such recall election.

(5) (a) Applications for absentee ballots shall be made available by the municipal clerk
no later than twenty-four hours after the governing body fixes the date for the holding of the
recall election through the close of business on the fifth day before the recall election.

(b) Absentee ballots shall be available no later than ten days before the recall election.

(c) The absentee polling place in the office of the municipal clerk shall be open during
regular business hours between the tenth and fifth day preceding the recall election.

(6) If a majority of those voting on said question of the recall of any incumbent from
office vote "no", said incumbent shall continue in said office. If a majority vote "yes", such
incumbent shall be removed from such office upon compliance with section 31-4-401 by his
successor.

(7) If the vote in such recall election recalls the officer, the candidate who has received
the highest number of votes for the office thereby vacated shall be declared elected for the
remainder of the term, and a certificate of election shall be forthwith issued to him by the
canvassing board. In case the person who received the highest number of votes fails to comply
with section 31-4-401 within fifteen days after the issuance of a certificate of election, or in the
event no person sought election, the office shall be deemed vacant and shall be filled according
(8) Mandatory or optional recounts of ballots cast in a recall election shall be conducted in accordance with section 31-10-1207.


Editor's note: This section is similar to former § 31-5-204 as it existed prior to 1975.

31-4-504.5. Incumbent not recalled - reimbursement. (1) If at any recall election the incumbent whose recall is sought is not recalled, or in the event of a protest, the hearing officer determines that the petitions are not sufficient based upon the conduct on the part of petition circulators, the municipality may repay the incumbent for any money actually expended as expenses of such election when such expenses are authorized by this section.

(2) (a) Authorized expenses shall include, but are not limited to, moneys spent in challenging the sufficiency of the recall petition and in presenting to the voters the official position of the incumbent, to include campaign literature and advertising and the maintaining of a campaign headquarters.

(b) Unauthorized expenses shall include, but are not limited to, moneys spent on challenges and court actions not pertaining to the sufficiency of the recall petition; personal expenses for meals, lodging, and mileage for the incumbent; costs of maintaining a campaign staff; reimbursement for expenses incurred by a campaign committee which has solicited contributions; reimbursement of any kind for employees in the incumbent's office; and all expenses incurred prior to the filing of the recall petition.

(3) The incumbent shall file a complete and detailed request for reimbursement with the governing body of the municipality holding the recall election or protest hearing, which shall then review the reimbursement request for appropriateness under subsection (2) of this section, and, in the event the municipality has determined by ordinance to repay such expenses, such municipality shall repay such expenses within forty-five days of receipt of the request.

(4) (Deleted by amendment, L. 91, p. 754, § 22, effective April 4, 1991.)

Source: L. 75: Entire title R&RE, p. 1175, § 1, effective July 1. L. 84: (3) amended, p. 837, § 1, effective July 1. L. 91: (1), (3), and (4) amended, p. 754, § 22, effective April 4.

31-4-505. Recall after six months - second petition. (1) No recall petition shall be circulated or filed and no pending recall proceedings shall be continued against any officer until the officer has actually held the office for at least six months following the officer's election or reelection.

(2) After one recall petition and election, no further petition shall be filed against the same officer during the term for which he was elected unless the petitioners signing said petition equal fifty percent of all ballots cast for that office at the last preceding regular election.

Editor's note: This section is similar to former § 31-5-205 as it existed prior to 1975.

31-4-506. Disclosure of contributions, contributions in kind, and expenditures. (Repealed)


31-4-507. Powers of clerk and deputy. (1) Except as otherwise provided in this article, the clerk shall render all interpretations and shall make all initial decisions as to controversies or other matters arising in the operation of this article.

(2) All powers and authority granted to the clerk by this article may be exercised by a deputy clerk in the absence of the clerk or in the event the clerk for any reason is unable to perform the duties of the clerk's office.