

CITY OF EDGEWATER

Recall Guidelines

Prepared by:

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INTRODUCTION

The City of Edgewater, Colorado is a home rule municipality. As such, the citizens of Edgewater have adopted local provisions in the Charter of the City of Edgewater (“Charter”) relating to the recall of elected officials.

This guide is provided to assist electors in exercising the power to recall any elected official including the Mayor and any Council member. The information contained herein is basic in nature and is not intended to be comprehensive in scope or depth, nor is it to be construed as legal advice. If you have questions regarding the interpretation of applicable laws and regulations for your particular situation, you may wish to consult with a private attorney who can provide you with that interpretation. If there is any inconsistency between these guidelines and the applicable provisions of the Edgewater Municipal Code (“Code”), Charter or state law, the provisions of the Code, Charter or state law take precedence.

Contact Information

All questions or comments regarding this Guide should be directed to the City Clerk’s office:

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THE RECALL PROCESS

What is the Recall Process?

The recall process is a procedure by which voters can remove an elected official from office through a direct vote before his or her term has ended.

When are Elected Officials Eligible to be Recalled?

Elected Officials may be recalled at any time after serving six (6) months in office.

What Law Governs How a Recall is Processed?

Section 5.3 of the Charter contains provisions relating to recalls. Additional information is contained in § 31-4-501, et seq., Colorado Revised Statutes (“C.R.S.”). However, that statute does not apply where alternative procedures are provided for within the Charter.

How are Recall Proceedings Started?

A committee of not less than three (3) nor more than five (5) people is required to begin the recall process. This committee represents the petition for all purposes. A petition containing the requisite number of signatures is filed in the office of the City Clerk, demanding an election of a successor to the officer named in the petition. The petition shall designate the committee members by name and address.

Petition Forms

Petition forms must be consistent with the requirements of § 31-4-502, C.R.S. Prior to the printing and circulating of petitions, the City Clerk shall approve or reject the petition as to form by the close of the second day of business following the date of petition submittal. The City Clerk shall mail written notice of her action to the officer sought to be recalled on the day that the recall petition is approved.

The petition must include the name of the municipality and the name of the officer sought to be recalled. A petition must be filed for each officer that is subject to recall.

The petition must contain a general statement, not to exceed two hundred (200) words, of the grounds on which the recall is sought. The voters will be the sole and exclusive judges of the legality, reasonableness and sufficiency of the stated grounds for the recall, which grounds are not open to review.

Recall proponents have sixty (60) days from the date on which the City Clerk approves the form of the petition to circulate petitions for the requisite number of signatures and to submit their petition to the City Clerk. The recall petition may be circulated and signed in sections, but each section must contain a full and accurate copy of the title and the text of the petition.

A petition sample is provided at the end of this Guide. The sample form provided with this Guide does **not** constitute a petition “approved as to form” by the City Clerk, suitable to use to gather signatures. Any proposed recall petition form must first be properly completed and filed with the City Clerk for approval prior to circulating such petition to gather signatures.

Circulators

Only persons who are eighteen (18) years of age or older may circulate a petition for signatures. To circulate a petition:

- Read the warning at the top of each page.
- There can only be one (1) circulator for each petition section, but a circulator may carry more than one (1) petition section.
- A petition section may not be left on a table unattended or passed among potential signers if the circulator is not accompanying the petition section.
- The circulator must witness every signature line as it is written.

- **Do not take the petition section apart.** If the original staples are removed the petition section will not count.
- Make sure that all the required information is complete before a signer leaves your presence.

Circulators are prohibited from paying or offering to pay any money or other thing of value to any person for the purposes of inducing or causing the person to sign a petition.

Circulators are required to complete an affidavit, attached to each petition section, after the petition has been circulated. The affidavit must be signed, under oath, before a notary public. No additional signatures may be obtained on a petition section after completion of the affidavit.

Signature Requirements

Only registered electors who reside within Edgewater City limits, as shown by the records of the Jefferson County Clerk and Recorder, may sign a petition. Each signer must sign his or her own signature, followed by their printed name, residence address including the street number and name, the city, the county and the date of signing. No person may sign more than once on the same petition section or on different sections.

If a registered elector is physically disabled or is illiterate and wishes to sign the petition, the elector must sign or make his or her mark in the space provided. Any person, other than the circulator, may assist the disabled or illiterate elector in completing the remaining information. The person providing assistance must sign his or her name and address and must state that such assistance was given to the disabled or illiterate elector.

Under Section 5.3(2) of the Charter, a recall petition must be signed by at least twenty-five percent (25%) of the ballots cast at the last preceding election. The “last preceding election” is the last preceding election at which the person sought to be recalled was elected to office, unless the person sought to be recalled was appointed to fill a vacancy, in which event it will be the last preceding election at which the person who created the vacancy was elected to office.

Any signer of a recall petition may request that his or her name be stricken from the recall petition at any time prior to the date the petition is deemed sufficient by the City Clerk by filing a written request with the City Clerk and delivering a copy of the request to a member of the recall petition committee.

VERIFICATION & CERTIFICATION OF THE PETITION

Signature Verification

The City Clerk has to the close of business five (5) business days after the filing of the recall petition to inspect the signatures and the attached affidavits by examining the information for patent defects by comparing the information against a list of registered electors provided by Jefferson County or by any other reasonable means unless a protest has been filed by that date.

After examining the petition, the City Clerk shall issue a statement as to whether a sufficient number of valid signatures have been submitted. If a petition is determined to be not sufficient, the City Clerk shall identify those portions of the petition that not sufficient and the reasons therefor. A copy of the statement will be mailed to the officer sought to be recalled and to the committee.

Protests

Any registered elector of the City of Edgewater may protest a petition within fifteen (15) days after the petition is filed. The protest must be in writing, made under oath, and must be filed with the City Clerk setting forth specifically the grounds for such protest. Grounds for protest may include, but are not limited to, failure of any portion of the petition or circulator affidavit or petition circulator to meet the requirements of the law.

The City Clerk shall mail of copy of the protest to the officer sought to be recalled, to the committee and to the Jefferson County Clerk and Recorder, together with a notice fixing a time for hearing the protest which must commence not less than five (5) nor more than ten (10) days after the notice of protest is mailed.

Unless someone else is designated by the City Council, the City Clerk shall serve as the hearing officer. The City Clerk has the power to issue subpoenas and to compel the attendance of witnesses and the production of documents. All records and hearing are public and all testimony must be given under oath. The hearing must be summary in nature and concluded within thirty (30) days after the petition is filed. Within five (5) days after the hearing is concluded, the City Clerk shall issue a written determination of petition sufficiency or insufficiency. If the City Clerk determines that a petition is not sufficient, the City Clerk shall identify those portions of the petition that not sufficient and the reasons for the insufficiency. A copy of the statement will be mailed forthwith to the officer sought to be recalled and to the committee.

If the petition is determined to be insufficient, a majority of the recall committee may withdraw the petition and within fifteen (15) days after the City Clerk's determination, amend the petition "by the addition of any required information relating to the signers or the attachment of proper circulator affidavits." This "cure period" only permits the addition of information concerning signers of the petition, not the gathering of new signatures. The City Clerk has four (4) business days to issue a statement of sufficiency or insufficiency. If the petition is deemed insufficient again, it may not be again withdrawn and again refiled. A protest concerning the refiled petition must be filed within five (5) business days after it is refiled.

The officer who is the subject of the recall petition, or the officer's representative, or a majority of the committee, may apply to the Jefferson County district court for review of the findings as to the sufficiency of the petition.

The recall petition may be withdrawn any time prior to thirty (30) days before the election by written request signed by all petition representatives.

COUNCIL ACTION

The City Clerk shall submit a certificate of sufficiency to the City Council at its first meeting after determination is made and the protest period has expired or the petition is determined to be sufficient in a protest, whichever is later. The City Council shall set a date for a Recall Election no less than thirty (30) days nor more than ninety (90) days from the date the petition is submitted to the City Council. However, if a regular election is scheduled to occur within one hundred eighty (180) days from such date, the recall election shall be held as part of the regular election.

THE ELECTION

If the officer who is the subject of the recall petition resigns by submitting a written letter of resignation to the City Clerk at any time prior to the recall election, all recall proceedings shall be terminated and the vacancy caused by the 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.

Procedures for filling a mayoral or council vacancy are contained in the Edgewater Home Rule Charter at §2.7 and §3.6 respectively.

Election Notice

The City Clerk shall publish a notice of the election at least ten (10) days prior to the election.

Nominations on the Recall

Anyone desiring to become a candidate at the recall election must do so by nominating petition which may be circulated on the first business day after the City Council has set the election date. Nominating petitions must be filed with the City Clerk no later than twenty (20) days prior to the recall election. If the City Council chooses to conduct the election by mail ballot, candidates will have not less than ten (10) days within which to circulate nominating petitions and those petitions must be filed with the City Clerk no later than forty-five (45) days prior to the election.

The Ballot

The recall committee and the officer to be recalled are entitled to have statements appear on the ballot. The recall committee's statement must not be more than two hundred (200) words and must contain the reasons set forth in the petition for demanding the officer's recall. The officer's statement must not be more than three hundred (300) words and must contain the officer's justification of his or her course in office. These statements must be filed with the City Clerk by the date on which the nomination petitions must be filed.

The ballot shall contain, as to every officer whose recall is to be voted upon, the words, “Shall (name of person against whom the recall is filed) be recalled from the office of (title of office)?” Following the question shall be the words “yes” or “no”.

On the same ballot, under each question, shall be printed the names (in alphabetical order) of those persons nominated as candidates to succeed the officer to be recalled.

If the officer who is the subject of the recall petition resigns at any time subsequent to the calling of the recall election, the recall election shall be held, notwithstanding such resignation.

ELECTION RESULTS

If a majority of those voting on the question of the recall vote “no”, the incumbent shall continue in office. If a majority vote “yes”, the incumbent shall be removed from office. The incumbent is deemed removed from his or her office when his or her successor takes the oath of office.

If the recall is successful, the candidate who received the highest number of votes for the office vacated shall be declared elected for the remainder of the term.

A certificate of election shall be issued to the newly elected candidate. If the successful candidate fails to take their oath of office within fifteen (15) 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 to law.

RECALL PROTOCOL

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 (6) months following the officer’s election or reelection.

After one (1) recall petition and election, no further petition shall be filed against the same person during the term for which such person was elected or appointed, unless the signers number at least 50 percent (50%) of the ballots cast at the last preceding election.

SAMPLE

Petition Section No. _____

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 Edgewater.

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.

Petition to Recall _____ **from the office of** _____
(Name of person sought to be recalled.) (Title of office.)

The following committee represents the petition signers in all matters affecting this recall petition (not less than 3 nor more than 5):

- | | | | |
|----|--|----|--|
| 1. | Name: _____
Mailing Address: _____
_____ | 2. | Name: _____
Mailing Address: _____
_____ |
| 3. | Name: _____
Mailing Address: _____
_____ | 4. | Name: _____
Mailing Address: _____
_____ |
| 5. | Name: _____
Mailing Address: _____
_____ | | |

Grounds for Recall:

TO BE INSERTED

(General statement not to exceed 200 words of the grounds on which the recall is sought.)

SAMPLE

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 Edgewater.

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.

Petition to Recall _____ from the office of _____
(Name of person sought to be recalled.) (Title of office.)

1.

PRINT LAST NAME	PRINT FIRST NAME	M.I.	SIGNING DATE (M/D/Y)

RESIDENCE STREET ADDRESS	CITY/TOWN	COUNTY	SIGNATURE

2.

PRINT LAST NAME	PRINT FIRST NAME	M.I.	SIGNING DATE (M/D/Y)

RESIDENCE STREET ADDRESS	CITY/TOWN	COUNTY	SIGNATURE

3.

PRINT LAST NAME	PRINT FIRST NAME	M.I.	SIGNING DATE (M/D/Y)

RESIDENCE STREET ADDRESS	CITY/TOWN	COUNTY	SIGNATURE

4.

PRINT LAST NAME	PRINT FIRST NAME	M.I.	SIGNING DATE (M/D/Y)

RESIDENCE STREET ADDRESS	CITY/TOWN	COUNTY	SIGNATURE

5.

PRINT LAST NAME	PRINT FIRST NAME	M.I.	SIGNING DATE (M/D/Y)

RESIDENCE STREET ADDRESS	CITY/TOWN	COUNTY	SIGNATURE
