

CHAPTER IV
ELECTION AND RECALL

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ARTICLE 1

GENERAL

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4-1-1 Election Procedure

- (a) Each regular election held on the first Tuesday in April in the even numbered years and all special elections called by the Board of Trustees for any purpose shall be in the manner prescribed by the Colorado Municipal Election Code of 1965 as the same may, from time to time be amended.
- (b) **Four-year terms for trustees.** At the April 6th, 1982, election, six trustees shall be elected. The three candidates for trustee receiving the highest number of votes shall be elected for four-year terms, and the the three candidates for trustee receiving the next highest numbers of votes shall be elected for two-year terms. At the next subsequent regular election and at each regular election thereafter, three trustees shall be elected to serve four-year terms.
- (c) **Four-year terms for mayor.** At the April 6th, 1982, election, and at the regular election every four years thereafter, a mayor shall be elected to serve a four year term.
- (d) **Vacancies.** The Board of Trustees shall have the power, by appointment, to fill all vacancies in the Board or in any other elected office, and the person so appointed shall hold office until the next regular election and until his successor is elected and qualified. If the term of the person creating the vacancy was to extend beyond the next regular election, the person elected to fill the vacancy shall be elected for the unexpired term. Where a vacancy or vacancies exist in the office of trustee and a successor or successors are to be elected at the next election to fill the unexpired term or terms, the three candidates for trustee receiving the highest number of votes shall be elected to four-year terms and the candidate or candidates receiving the next highest number of votes, in descending order, shall be elected to fill the unexpired term or terms.

4-1-2 Removal of Officers

By the concurrent vote of four (4) members of the Board of Trustees, the Mayor, or any member of the Board, or any elective officer of the Town, may be removed from office. No such removal shall be made without a charge in writing and an opportunity of hearing being given, unless the officer against whom the charge is made shall have moved out of the limits of the Town. (When any elective officer shall cease to reside within the limits of the-Town, it shall be deemed a good ground for removal from office.)

4-1-3 WRITE-IN CANDIDATES:

No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the Town Clerk by the person whose name is written in prior to twenty (20) days before the day of the election indicating that such person desires the office and is qualified to assume the duties of that office if elected.

4-1-4 CANCELLATION OF ELECTION

If the only matter before the voters is the election of persons to office and if, at the close of business on the nineteenth (19th) day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent, the clerk, if instructed by resolution of the governing body either before or after such date, shall cancel the election and by resolution declare the candidates elected. Upon such declaration, the candidates shall be deemed elected. Notice of such cancellation shall be published, if possible, in order to inform the electors of the municipality, and notice of such cancellation shall be posted at each polling place and in not less than one other public place.

ARTICLE 2

RECALL

4-2-1	Recall of Officials
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4-2-1 Recall of Officials

Every elective officer of the Town of Hotchkiss may be recalled from office at any time by the electors entitled to vote for a successor of such incumbent, through the procedure provided for in this section.

4-2-2 Petition Procedure

The procedure to effect the recall of an elective officer of the Town shall be as follows:

- (a) A petition, signed by electors entitled to vote for a successor of the incumbent sought to be recalled, equal in number to forty percent(40%) of all ballots cast at the last preceding Town election, demanding an election of the successor to the officer named in said petition.
- (b) The petition shall be filed with the Town Clerk.
- (c) Such petition shall contain a general statement, in not more than two hundred (200) words of the grounds on which recall is sought.

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- (d). Any recall petition may be circulated and signed in sections; provided each section shall contain a full and accurate copy of the title and text of the petition,
- (e) Each signer must add to his signature, the date of signing, and his place of residence, giving his street number, if any.
- (f) The person circulating such sheet must make and subscribe an oath on said sheet that the signatures thereon are genuine, and a false oath, willfully so made and subscribed by such person, shall be perjury in the second degree as defined by the State Statute and punished as such.

4-2-3 Protest Procedure

All petitions shall be deemed and held to be sufficient if they appear to be signed by the requisite number of signers who shall be deemed and held to be qualified electors, unless a protest in writing, under oath, shall be filed with the Town Clerk by a qualified elector.

- (a) Such protest must be filed within fifteen (15) days after the petition is filed.
- (b) The protest must set forth specifically the grounds of such protest.
- (c) Upon the filing of such protest, the Clerk shall forthwith mail a copy of such protest to the persons named in such petition as representing the signers thereof, together with a notice fixing a time for hearing such protest not less than five (5) nor more than ten (10) days after such notice is mailed.
- (d) All hearings shall be held before the Clerk and all testimony shall be under oath.
- (e) Such hearings shall be summary and not subject to delay and must be concluded within thirty (30) days after such petition is filed.

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- (f). The result of the hearing shall be certified to the persons representing the signers of such petition.
- (g) The finding as to the sufficiency of the petition may be reviewed by any State Court of general jurisdiction in the County.

4-2-4 Insufficient Petition

In case the petition is not sufficient it may be withdrawn by the person or a majority of the persons representing the signers of such petition, and, within fifteen (15) days thereafter, may be amended and re-filed as an original petition.

4-2-5 Sufficient Petition

When such petition is sufficient, the Clerk shall forthwith submit said petition, together with a certificate of its sufficiency to the Board of Trustees, the Board shall thereupon order and fix the date for holding an election, not less than thirty (30) days nor more than sixty (60) days from the date of the submission of said petition. If a Town election is to be held within ninety (90) days after the date of submission of said petition, the recall election shall be held as a part of said election.

4-2-6 Resignation of Officer

If such officer shall offer his resignation, it shall be accepted, and the vacancy caused by such resignation, or from any other cause, shall be filled as provided by law; but the person appointed to fill such vacancy shall hold his office only until the person elected at the recall election shall qualify. If such officer shall not resign within five (5) days after the sufficiency of the recall petition shall have been sustained, the Board of Trustees shall make, or cause to be made publication of notice for the holding of such election, and the same shall be conducted, returned, and the result thereof declared in all respects as in the case of other Town elections.

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4-2-7 Official Recall Ballot

On the official ballot at such elections shall be printed in not more than two hundred (200) words, the reasons set forth in the petition for demanding the officer's recall, and in not more than three hundred (300) words there shall also be printed, if desired by him, the officer's justification of his course in office. If such officer shall resign at any time subsequent to filing of the official ballot, the recall election shall be called notwithstanding such resignation.

- (a) 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.
- (b) 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 thought to be recalled from office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office.

4-2-8 Result of Election

If a majority of those voting on said question of the recall of any incumbent from office shall vote "No," said incumbent shall continue in office. If a majority shall vote "Yes," such incumbent shall thereupon be deemed removed from office upon the qualification of his successor.

- (a) If the vote in such recall election recalls the officer, then the candidate who has received the

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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 qualify within fifteen (15) days after the issuance of a certificate of election, the office shall be deemed vacant, and shall be filled according to law.

4-2-9 Nomination of Candidates

Candidates for the office may be nominated by petition, as provided by law, which petition shall be filed with the Town Clerk not less than fifteen (15) days before the recall election.

4-2-10 Recall After Six(6) Months

No recall petition shall be circulated or signed against any officer until he has actually held his office for at least six (6) months, unless he holds his office by virtue of appointment to fill a vacancy.

4-2-11 Second Petition

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 shall equal fifty percent (50%) of the ballots cast at the last preceding Town election.