

## MEMORANDUM

**TO:** Mayor Jones and Members of the Board

**FROM:** Randi Gallivan, Town Clerk

**DATE:** January 18, 2018

**RE:** **Ordinances 2018-01, Amending Sections 2-1-20 and 2-1-30 of the Foxfield Municipal Code Regarding Deadlines for Affidavits for Write-In Candidates and Cancellation of Elections**

Attached for Board consideration is an ordinance amending Section 2 of the Municipal Code regarding deadlines for write-in candidate affidavits and cancellation of elections. The attached confidential memo from Corey Hoffmann explains the changes in more detail.

**A BILL FOR AN ORDINANCE AMENDING SECTIONS 2-1-20 AND 2-1-30 OF THE  
FOXFIELD MUNICIPAL CODE REGARDING DEADLINES FOR AFFIDAVITS FOR  
WRITE-IN CANDIDATES AND CANCELLATION OF ELECTIONS**

WHEREAS, Section 2-1-20 of the Foxfield Municipal Code currently requires that any write-in candidate must file with the Town Clerk an affidavit of intent prior to twenty (20) days before the election for write-in votes for that candidate to be counted;

WHEREAS, the Uniform Election Code and C.R.S. § 31-10-912 now require that write-in candidate affidavits must be filed no later than sixty-four (64) days before the election date;

WHEREAS, C.R.S. § 31-10-102.8 was similarly amended in 2015 to require that ballots for active military and overseas voters be mailed no later than forty-five (45) days prior to the election; and

WHEREAS, the Board of Trustees desires to amend Sections 2-1-20 and 2-1-30 of the Foxfield Municipal Code to comport with recent legislative enactments.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF FOXFIELD, COLORADO:

Section 1. Section 2-1-20 of the Foxfield Municipal Code is hereby repealed and reenacted to read as follows:

**Sec. 2-1-20. Write-in candidate affidavit.**

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 not later than sixty-four (64) days before the election indicating that such person desires the office and is qualified to assume the duties of that office if elected.

Section 2. Section 2-1-30 of the Foxfield Municipal Code is hereby repealed and reenacted to read as follows:

**Sec. 2-1-30. Cancellation of election.**

(a) If the only matter before the voters is the election of persons to office and if, at the close of business on the sixty-third day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent as set forth in Section 2-1-20, the Town Clerk, if instructed by resolution of the Board of Trustees either before or after such date, shall cancel the election and candidate, by resolution of the Board of Trustees, shall be declared to be elected.

(b) Notice of such cancellation shall be published, if possible, and notice of such cancellation shall be posted at each polling place and in not less than one (1) other public place.

Section 3. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police powers of the Town of Foxfield, 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 Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 5. Unless otherwise stated, this ordinance shall become effective thirty (30) days after final publication.

Adopted as Ordinance No. 01 Series of 2018, by the Board of Trustees of Foxfield, Colorado, and signed and approved by its Mayor or presiding officers this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 2018.

\_\_\_\_\_  
Lisa Jones, Mayor

ATTEST:

\_\_\_\_\_  
Miranda Gallivan, Town Clerk

Town Seal

\_\_\_\_\_  
Corey Y. Hoffmann, Town Attorney  
(Approved as to Form)