



TOWN OF MILLIKEN
TOWN BOARD
AGENDA MEMORANDUM

To: Mayor Tokunaga and Town Board of Trustees	Meeting Date:
From: Linda Michow, Town Attorney	Wednesday January 27, 2016
Via: Kent Brown, Town Administrator	

Agenda Item #	Action:	Discussion:	Information:
	X		
Agenda Title: Ordinance No. 726 Amending Sections 2-1-10, 2-1-20 and 2-1-30 of the Milliken Municipal Code to Conform to State Law Regarding Election Deadlines and Declaring an Emergency			
Attachments: Ordinance No. 726			

PURPOSE:

For Board consideration on the January 27, 2016 agenda is Ordinance No. 726 to change the time frames associated with submission of write-in candidates and cancellation of an election to conform to the federal Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) and to state law adopting provisions of the same.

BACKGROUND:

UOCAVA requires that states and territories of the United States allow certain citizens to register and vote absentee in federal elections. The protections of UOCAVA apply generally to members of the uniformed services on active duty and their families who are absent due to the member’s active duty or service. In 2014, the Colorado State Legislature enacted House Bill 14-1164, which requires all municipal election to comply with UOCAVA. Through this legislation the write-in candidate time frame for mail ballot elections was changed from 21 days to 64 days prior to the date of the election. With this change, the deadline to cancel an election also must change from 20 days to 63 days prior to the date of an election.¹ These time frames are consistent with UOCAVA. These changes in state law require corresponding changes in the Milliken Municipal Code.

PROPOSED ORDINANCE:

Ordinance No. 726 will change the write-in candidate affidavit deadline and associated deadline for cancellation of an election from 21 days and 20 days, respectively, to 64 days and 63 days, respectively, in the Municipal Code. The Ordinance also clarifies through an

¹HB 14-1164 failed to include the corresponding change in cancellation of election deadline; however, according to Karen Goldman (Aurora Deputy City Clerk), a clean-up bill will be introduced in 2016 to include a provision permitting cancellation on the 63rd day. The 63 day time frame is consistent with UOCAVA.

amendment to Section 2-1-10 of the Municipal Code that the Uniform Election Code applies to all coordinated elections, without the need for the Board to adopt a future ordinance. The Ordinance is proposed to be adopted as an emergency measure because the Town's municipal election is scheduled for Tuesday, April 5, 2016, and the Town is obligated to comply with state statutory provisions regarding the various deadlines in the election process, and will be unable to meet those deadlines unless this Ordinance is made immediately effective.

BUDGET IMPLICATONS:

None identified.

STAFF RECOMMENDATION:

In order to be in compliance with the UOCAVA provisions and state law, City staff recommends adoption of Ordinance No. 726 as an emergency measure. Emergency ordinances require the affirmative vote of three-fourths of the members of the Board, meaning six members of the Board must vote in favor of the Ordinance in order for it to pass as an emergency.

SUGGESTED MOTION:

"I move to approve Ordinance No. 726 Amending Sections 2-1-10, 2-1-20, and 2-1-30 of the Milliken Municipal Code to Conform to State Law Regarding Election Deadlines and Declaring an Emergency."

ORDINANCE NO. 726

**AN ORDINANCE AMENDING SECTIONS 2-1-10, 2-1-20, and 2-1-30 OF
THE MILLIKEN MUNICIPAL CODE TO CONFORM TO STATE LAW
REGARDING ELECTION DEADLINES AND DECLARING AN
EMERGENCY**

WHEREAS, the Milliken Municipal Code requires elections to be conducted in accordance with the Colorado Municipal Election Code of 1965; and

WHEREAS, the Milliken Municipal Code further states that the Town may by ordinance determine to follow all or part of the provisions of the Uniform Election Code of 1992 for any election; and

WHEREAS, due to changes in Colorado municipal election laws, the deadlines set forth in Chapter 2, Sections 2.1.20 and 2.1.30 are no longer feasible; and

WHEREAS, this Ordinance is necessary for the immediate preservation of the public peace, health and safety because a municipal election is scheduled for Tuesday, April 5, 2016, and the Town is obligated to comply with state statutory provisions regarding the various deadlines in the election process, and will be unable to meet those deadlines unless this Ordinance is made immediately effective.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF
THE TOWN OF MILLIKEN, THAT:**

Section 1. Section 2-1-10 of the Milliken Municipal Code shall be repealed and reenacted to read in full as follows:

Municipal elections shall be held and conducted in accordance with the Colorado Municipal Election Code as codified in Article 10 of Title 31 of the Colorado Revised Statutes, except that coordinated elections shall be held and conducted in accordance with the Uniform Election Code of 1992 as codified in Title 1 of the Colorado Revised Statutes.

Section 2. Section 2-1-20 of the Milliken Municipal Code shall be repealed and reenacted to read in full as follows:

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 by close of business on the sixty-fourth (64th) day 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.

Section 3. Section 2-1-30 of the Milliken Municipal Code shall be repealed and reenacted to read in full as follows:

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 (63rd) day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent, the

Town Clerk, if instructed by resolution of the Board of Trustees either before or after such date, shall cancel the election. The Board of Trustees, by resolution, shall declare the candidates elected and the candidates shall be deemed elected. Notice of such cancellation shall be published, if possible, in order to inform the electors of the Town, and notice of such cancellation shall be posted at each polling place and in not less than one (1) other public place.

Section 4. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this Ordinance are not determined by the court to be inoperable. The Town Board of Trustees declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion would be declared invalid or unconstitutional.

Section 5. Emergency. This Ordinance is necessary for the immediate preservation of the public peace, health and safety because a municipal election is scheduled for Tuesday, April 5, 2016, and the Town is obligated to comply with state statutory provisions regarding the various deadlines in the election process, and will be unable to meet those deadlines unless this Ordinance is made immediately effective.

Section 6. Effective Date. As an emergency measure, this Ordinance shall become effective immediately upon adoption as provided in C.R.S. § 31-16-105.

Introduced, read, **adopted as an emergency by an affirmative vote of three-fourths of the members of the Board of Trustees**, signed and ordered published in full by the Board of Trustees of the Town of Milliken this ____ day of _____, 2016.

TOWN OF MILLIKEN

Milt Tokunaga, Mayor

ATTEST:

APPROVED AS TO FORM:

Cheryl Powell, Town Clerk

Linda Michow, Town Attorney

Published: _____