

## ORDINANCE 2019-02

### AN ORDINANCE AMENDING CHAPTER 2.19 OF THE FRUITA MUNICIPAL CODE RELATING TO DEADLINES TO FILE WRITE-IN CANDIDATE AFFIDAVITS AND WHEN A MUNICIPAL ELECTION MAY BE CANCELLED

**WHEREAS**, C.R.S. 31-10-306 provides that a municipality may provide by ordinance that no write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the clerk by the person whose name is written in prior to sixty-four (64) 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; and

**WHEREAS**, C.R.S. 31-10-507 provides that in any ordinance adopted by the governing body of the municipality requiring an affidavit of intent for write-in candidates as provided in section 31-10-306, the governing body may also provide that, if the only matter before the voter is the election of persons to office and if, at the close of business on the sixty-fourth 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; and

**WHEREAS**, the City Council of the City of Fruita desires to amend the Fruita Municipal Code to require an earlier deadline by which an Affidavit of Intent must be filed to provide for sufficient time to print ballots in a mail ballot election and the deadline when an election may be cancelled.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA THAT:**

**Section 1:** Section 2.19.010 of the Fruita Municipal Code and Ordinance 1995-12, S1 is hereby amended to read as follows: (~~Deleted text is in red with strikeout~~ and **NEW TEXT IS IN BOLD, CAPITAL LETTERS.**)

Section 2.19.010 Write-In Candidate Affidavit Required.

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

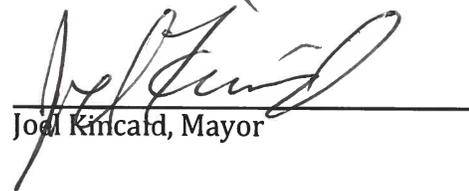
**Section 2:** Section 2.19.020 of the Fruita Municipal Code and Ordinance 1995-12, S2 is hereby amended to read as follows: (~~Deleted text is in red with strikeout~~ and **NEW TEXT IS IN BOLD, CAPITAL LETTERS.**)

Section 2.19.020. Election May be Canceled - When.

If the only matter before the voters is the election of persons to office and if, at the close of business on the ~~nineteenth~~ **SIXTY-FOURTH** day before the election, there are not more candidates than offices to be filled at such election, including candidates who have filed affidavits of intent as required by Section 2.19.010 of this code, the City Clerk ~~shall certify such fact to the City Council, and it shall hold a meeting and may,~~ **IF INSTRUCTED BY RESOLUTION OF THE CITY COUNCIL EITHER BEFORE OR AFTER SUCH DATE**, shall cancel the election and by resolution declare the candidates elected and, as permitted by C.R.S. 31-10-507, said candidates shall be deemed elected. The City Clerk shall publish notice of such cancellation if possible, in order to inform the electors of the City of Fruita, and notice of such cancellation shall be posted at each polling place and in not less than one other public place.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL THIS  
19th DAY OF FEBRUARY 2019**

City of Fruita, Colorado

  
Joel Kincaid, Mayor

ATTEST:

  
Margaret Sell, City Clerk