

SUBJECT

First Reading of Ordinance No. 130, 2011, Amending Chapter 7 of the City Code to Expand the Types of Registered Electors Who Automatically Receive Mail Ballots, and to Require the City to Pay the Postage Due for Ballots Returned by Mail.

EXECUTIVE SUMMARY

This Ordinance would amend the City Code to require that ballots in a City mail ballot election be mailed to inactive registered electors who voted in the last presidential election in addition to all active registered electors. In addition, the Code would be amended to require that the City pay postage on all voted ballots returned by mail. Both amendments are anticipated to increase voter participation.

BACKGROUND / DISCUSSION

Mail ballot elections in Colorado are governed by C.R.S, Title 1, Article 7.5, known as the "Mail Ballot Election Act". In 2006, the City of Fort Collins codified its own mail ballot election provisions, superceding the Mail Ballot Election Act, although the City's provisions as written in 2006 were closely aligned with the state law. This was permissible, because under the State Constitution, elections are a matter of local concern.

Mail Ballot Recipients

The Mail Ballot Election Act and the City Code both require ballots to be mailed to "each active registered elector". Council has expressed a desire to expand the types of registered electors who automatically receive mail ballots in a City election to include inactive registered electors who voted in the last presidential election.

Colorado uses a statewide voter registration system controlled by the Secretary of State. Each registered voter has a designated status, which is defined in current rules promulgated by the Secretary of State as follows:

- a. "Active status" or "active record" means that there are no conditions or restrictions on the voter's eligibility.
- b. "Cancelled status" or "cancelled record" means that the voter's registration has been cancelled or revoked based upon a determination that the voter is ineligible, or the applicant has been deemed not registered in accordance with these rules and Title 1, C.R.S.; or the voter has withdrawn their registration.
- c. "Inactive – failed to vote status" means that the voter was active prior to a General Election, but subsequently failed to vote in that General Election.
- d. "Inactive – returned mail status" or "inactive – undeliverable status" means that a voter information card or confirmation card was returned to the county clerk and recorder by the United States Postal Service as undeliverable.
- e. "Inactive – undeliverable ballot status" means that a voter was mailed a ballot that was subsequently returned to the county clerk and recorder by the United States Postal Service as undeliverable.

This proposal would target a segment of voters classified as "inactive - failed to vote", specifically those voters who are classified as such only because they failed to vote in the non-presidential General Election (Nov 2010, Nov 2014, Nov 2018, etc.). Voters who failed to vote in both the presidential election (Nov 2008, Nov 2012, Nov 2016, etc.) and the non-presidential election two years later will not automatically receive a ballot under this proposal. However, any

eligible voter (other than one who has a “cancelled” status) who did not automatically receive a ballot may request a ballot by completing simple paperwork to document the request and update the voter’s registration information (primarily current address). This paperwork is forwarded to the County elections office after the City’s election and is used to not only update registration information, but also serves to change the voter’s registration back to “active”.

Return Postage

The second portion of the Ordinance would eliminate the requirement for voters to affix postage when returning a ballot by mail, and instead, requires the City to provide postage. This can be accomplished through a postage permit under which the City will pay postage only on those ballots returned, at the current first-class rate.

This change also differs from the Mail Ballot Election Act, which requires the voter to pay postage.

FINANCIAL / ECONOMIC IMPACTS

Mail Ballot Recipients

Approximately 9500 additional voters would have received a ballot for the April 2011 election if ballots were mailed to inactive voters who had voted in the last presidential election. The approximate cost to include those additional voters would have been \$19,000.

Return Postage

For the April 2011 election, 16,965 ballots were returned by mail. If the City had paid return postage on those ballots, the cost would have been \$7,465.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

ORDINANCE NO. 130, 2011
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 7 OF THE CODE OF THE CITY OF FORT COLLINS
TO EXPAND THE TYPES OF REGISTERED ELECTORS WHO
AUTOMATICALLY RECEIVE MAIL BALLOTS, AND TO REQUIRE
THE CITY TO PAY THE POSTAGE DUE FOR BALLOTS RETURNED BY MAIL

WHEREAS, the City of Fort Collins is a Colorado home rule municipality and, as such, is authorized under Article XX, Section 6 of the Colorado Constitution to exercise certain specific powers, including the power to legislate upon, provide, regulate, coordinate and control all matters pertaining to municipal elections;

WHEREAS, on November 7, 2006, the City Council adopted Ordinance No. 165, 2006, establishing in Chapter 7, Article VII of the City Code its own provisions for conducting local mail ballot elections; and

WHEREAS, among the provisions contained in Chapter 7, Article VIII is Section 7-186, which establishes the procedure for mailing ballots to the registered electors of the City; and

WHEREAS, Section 7-186 presently states that ballots are to be mailed by the City Clerk to each active registered elector in the City, which requirement is the same as exists under the state Mail Ballot Election Act; and

WHEREAS, the City Council believes that it would be in the best interests of the citizens of the City to expand the category of electors to whom ballots are mailed and to also amend Section 7-186 of the Code to require that the postage for such ballots be paid by the City, so as to encourage more widespread participation in City elections.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That Section 7-186(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-186. Mailing of ballots; exception.

(a) No sooner than twenty-five (25) days before an election, and no later than fifteen (15) days before an election, the City Clerk shall mail to each active registered elector, ~~at the last mailing address appearing in the registration records and in accordance with United States postal service regulations;~~ **and to each inactive registered elector who voted in the last presidential election,** a mail ballot packet, which shall be marked "DO NOT FORWARD," or with any other similar statement that is in accordance with United States postal service regulations. **Said packet shall be sent in accordance with all applicable United States postal service regulations to**

the last mailing address appearing in the registration records of the Larimer County Clerk and Recorder.

...

Section 2. That Section 7-190(b) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-190. Voting and return of ballots.

...

(b) The eligible elector may return the marked ballot to the City Clerk by United States mail or by depositing the ballot at the office of the City Clerk or any place designated by the City Clerk. The ballot must be returned in the return envelope. If an eligible elector returns the ballot by mail, the ~~elector must provide the necessary postage~~ **cost of return postage shall be paid by the City**. In order to be counted, the ballot must be received at the office of the City Clerk or a designated depository prior to 7:00 p.m. on election day.

Introduced, considered favorably on first reading, and ordered published this 4th day of October, A.D. 2011, and to be presented for final passage on the 18th day of October, A.D. 2011.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading on the 18th day of October, A.D. 2011.

Mayor

ATTEST:

City Clerk