

CITY COUNCIL

ORDINANCE NO. 2021- 8

AN ORDINANCE AMENDING CHAPTER 3 OF THE CITY CODE RELATING TO THE RANKED-CHOICE VOTING METHOD

The City Council of the City of Bloomington, Minnesota does hereby ordain:

Section 1. That Article I of Chapter 3 of the City Code of Ordinances is amended by adding those words that are underlined and deleting those words struck through and contained in brackets [ ], to read as follows:

CHAPTER 3: ELECTIONS

ARTICLE I: ABSENTEE BALLOT BOARD [~~PRECINCT~~]

...

Section 2. That Chapter 3 of the City Code of Ordinances is amended to add a new Article 3 by adding those words that are underlined to read as follows:

CHAPTER 3: ELECTIONS

...

ARTICLE III: RULES OF CONDUCT FOR MUNICIPAL ELECTIONS; RANKED-CHOICE VOTING METHOD

**§ 3.07 APPLICABILITY.**

Pursuant to city charter section 4.07, this article establishes the requirements of the election of the mayor and city council members using the ranked-choice voting method. This article does not apply to school district, county, state, or federal elections.

**§ 3.08 DEFINITIONS.**

The following words and terms, when used in this article, shall have the following meanings unless the context indicates otherwise:

**BATCH ELIMINATION.** A simultaneous defeat of multiple continuing candidates when it is mathematically impossible to be elected.

**BY LOT.** A random method of breaking a tie vote, which method is solely determined by the chief election official, and as otherwise set forth in Minnesota Statutes, Section 205.185, as amended.

**CHIEF ELECTION OFFICIAL.** The city clerk, or the city clerk's designee(s).

**CONTINUING CANDIDATE.** A candidate who has not been elected or defeated.

**EXHAUSTED BALLOT.** A ballot on which all votes are for candidates who have been eliminated.

**HIGHEST CONTINUING RANKING.** The ranking on a voter’s ballot with the lowest numerical value for a continuing candidate.

**INACTIVE BALLOT.** A ballot that can no longer be counted, for the duration of the tabulation process. This includes exhausted ballots, partially defective ballots and totally defective ballots.

**MATHEMATICALLY ELIMINATED.** Either:

1. The candidate could never win because that candidate’s current vote total plus all votes that could possibly be transferred to the candidate in future rounds (from candidates with fewer votes, tied candidates, and from write-in candidates) would not be enough to equal or surpass the candidate with the next higher current vote total; or
2. The candidate has a lower current vote total than a candidate who is described by (1).

**MATHEMATICALLY IMPOSSIBLE TO BE ELECTED.** Mathematically eliminated by the next higher current vote total comparison.

**MAXIMUM POSSIBLE THRESHOLD.** The number of votes sufficient for a candidate to be elected based on Election Day tabulation. The maximum possible threshold equals the total ballots cast, including ballots with no votes, undervotes, skipped rankings, and overvotes for the office, divided by two (2), then adding one (1).

$$\text{Maximum Possible Threshold} = \left( \frac{\text{Total ballots cast}}{2} \right) + 1$$

**OVERVOTE.** Occurs when a voter ranks more than one (1) candidate at the same ranking.

**PARTIALLY DEFECTIVE BALLOT.** A ballot that is defective to the extent that election judges are unable to determine the voter’s intent with respect to the office being counted.

**RANKED-CHOICE VOTING.** An election method in which voters rank candidates for an office in order of their preference and ballots are counted in rounds where votes are distributed to candidates according to the preferences marked on each ballot until one (1) candidate meets the threshold, or until two (2) candidates remain and the candidate with the greater number of votes is declared elected.

**RANKED-CHOICE VOTING TABULATION CENTER.** Ranked-choice voting tabulation center means the location selected by the chief election official for the tabulation of votes.

**RANKING.** The number assigned by a voter to a candidate to express the voter’s preference for that candidate. Ranking number one (1) is the highest ranking and the voter’s most preferred candidate. A ranking of lower numerical value indicates a greater preference for a candidate than a ranking of higher numerical value.

**REPEAT CANDIDATE RANKING.** Occurs when a voter ranks the same candidate at multiple rankings for the office being counted.

**ROUND.** An instance of the sequences of voting tabulation steps.

**SKIPPED RANKING.** Occurs when a voter leaves a ranking blank and ranks a candidate at a subsequent ranking.

**SUM OF ALL RANKED-CHOICE VOTES.** The sum of all votes for a candidate at every ranking for an office, including all repeat candidate rankings.

**THRESHOLD.** The number of votes sufficient for a candidate to be elected to each office on the ballot during that tabulation round. The threshold equals the total votes counted, after removing inactive ballots, divided by two (2), then adding one (1).

$$\text{Threshold} = \left( \frac{\text{Total votes cast}}{2} \right) + 1$$

**TRANSFERABLE VOTE.** A vote for a candidate who has been defeated.

**TOTALLY DEFECTIVE BALLOT.** A ballot that is defective because the election judges are unable to determine the voter's intent for any office on the ballot, it contains marks identifying the voter, or it is deemed defective by state statute.

**UNDERVOTE.** An instance when a voter does not rank any candidates for an office or ranks less than the maximum allowable number of candidates.

**WRITE-IN CANDIDATE.** A vote cast for a person whose name is not printed on the ballot by writing the name of the person on the blank line provided on the ballot. A write-in candidate must meet the qualifications of the office in order to be declared elected to the office.

### **§ 3.09 ADMINISTRATIVE RULES.**

The chief election official shall establish and approve administrative rules for conducting municipal elections consistent with this article.

### **§ 3.10 BALLOTS.**

(a) Ballots.

- (1) A ballot must allow a voter to rank a number of candidates equal to the total number of candidates who filed for office, up to a maximum of six (6) rankings. A ballot must allow a voter to add write-in candidates as one or more of the ranked candidates.
- (2) A ballot must include instructions to voters that clearly indicate how to mark the ballot and how to rank candidates in order of the voter's preference so that an election judge or voting machine can tabulate the results.

(b) Mixed-election method ballots. If elections are held in which ranked-choice voting is used in addition to other methods of voting, the ranked-choice voting and non-ranked-choice voting elections must be on the same ballot if possible, with ranked-choice voting and non-ranked-choice voting portions clearly separated on the ballot. If placement of all offices to be elected cannot be placed on a single ballot, a separate ballot may be used for those offices to be elected using ranked-choice voting. The city may deviate from the standard ballot order of offices to allow separation of ranked-choice voting and non-ranked-choice voting elections.

### **§ 3.11 RANKED-CHOICE VOTING TABULATION CENTER.**

The chief election official shall designate at least one (1) location to serve as the ranked-choice voting tabulation center. Tabulation of votes must be conducted as described in this article.

### **§ 3.12 TABULATION OF VOTES.**

(a) Election day tabulation. For each office on the ballot, the number of first-choice votes cast for each candidate shall be tabulated by compiling the results from each precinct ballot counter plus accepted absentee ballots. If the vote total for a candidate, other than a write-in candidate, is equal to or greater than the maximum possible threshold, the tabulation for that office is complete.

(b) For any office which does not have a candidate reaching or exceeding the maximum possible threshold, the process shall proceed to Tabulation Rounds as described in clause (c) below. At any time after tabulation begins, the chief election official may declare a recess in the tabulation process. Notice of such recess, which must include the date, time and location at which the process of recording and tabulating votes will resume and the reason for the recess, shall be posted on the door(s) of the ranked-choice voting tabulation center.

(c) Tabulation round(s).

- (1) Tabulation of votes shall proceed in rounds for each office to be counted. The total number of first choice votes for each candidate, including write-in candidates, shall be tallied.
- (2) During any round of tabulation, when a skipped ranking, overvote, or repeat candidate ranking is encountered on a ballot, that ballot shall count towards the highest continuing ranking candidate that is not a skipped ranking, overvote, or repeat candidate ranking. If any ballot cannot be advanced because no further continuing candidates are ranked on that ballot, or because the only votes for further continuing candidates ranked on that ballot are either overvotes or repeat candidate rankings, the ballot shall become an inactive ballot. Inactive ballots shall not count towards any candidate in that round or in subsequent rounds for the office being counted.
- (3) During each tabulation round, the chief election official shall establish the threshold to be declared the winner at the conclusion of that round. Inactive ballots are not included when establishing the threshold.
- (4) At the end of each tabulation round, if a candidate has a vote total that is equal to or greater than the threshold determined in (3) above, the tabulation is complete. If no candidate meets the threshold, the candidate with the least number of votes, and all candidates for whom it is mathematically impossible to be elected, are eliminated.
- (5) The chief election official must resolve ties between candidates with the fewest votes by lot. The candidate chosen by lot proceeds to the next round or wins. The result of the tie resolution must be recorded and reused in the event of a recount.
- (6) Prior to starting subsequent rounds of tabulation, the chief election official must transfer all votes counted for the eliminated candidate(s) in the previous round to the next ranked continuing candidate. The total number of transferred votes shall be added to the total

number of votes for each candidate from the previous round.

- (7) Tabulation rounds continue until one (1) candidate reaches the threshold, or until only one (1) continuing candidate remains.

### **§ 3.13 TIED VOTES.**

The chief election official must resolve a tie by lot.

(a) Notice to candidates with tied votes. The chief election official must notify all candidates with tied votes that the tie will be resolved by lot. This notice must be sent at least one (1) hour prior to resolving the tie by lot. The notice must be sent through a medium that would generally be capable of reaching a person within the one-hour period, such as face-to-face, a fax, an email, an instant message, a text, a video chat, a telephone call, or a voicemail. The chief election official is not required to confirm that the notice is received by a candidate before resolving a tie by lot. A tie may be resolved by lot even though some or all of the candidates who have tied votes are not present.

(b) Witnesses. The resolving of the tie by lot must be witnessed by two (2) election judges who are members of different major political parties.

(c) Video. The resolving of a tie by lot shall be recorded through any audio and visual recording technology.

(d) Media. The chief election official shall allow the media to view the resolution of a tie by lot.

### **§ 3.14 REPORTING RESULTS.**

(a) Precinct summary statement. Each precinct must print a precinct summary statement, which must minimally include the number of votes in the first ranking for each candidate.

(b) Summary statement. The ranked-choice voting tabulation center must print a summary statement, which must include the following information: total votes cast, number of undervotes, number of totally defective and spoiled ballots, threshold calculation, total first choice rankings for all candidates, round-by-round tabulation results, including simultaneous batch eliminations and defeated candidate transfers, and exhausted ballots at each round.

(c) Election abstract. The election abstract must include the information required in the ranked-choice voting tabulation center summary statement, with the addition of the number of registered voters by precinct, the number of Election Day voter registrations, the number of absentee voters, and all other information required by law.

### **§ 3.15 RECOUNTS.**

(a) Publicly funded recounts. A defeated or eliminated candidate may request a publicly funded recount if the difference between the vote total for that candidate and for the winning or lowest-ranked continuing candidate is less than the required percentage as provided by Minnesota Statutes Section 204C.36, subd. 1, as amended.

- (1) Candidates shall file a written request for the recount with the city clerk. All requests shall be filed during the time for notice of contest of election for which a recount is sought.
- (2) Upon receipt of a request made pursuant to this section, the city shall recount the votes for a municipal office at the expense of the city.

(b) Discretionary candidate recounts. A candidate defeated or eliminated when the vote difference is greater than the difference required in clause (a), may request a discretionary recount at the candidate's own expense.

- (1) Candidates shall file a written request for the recount with the city clerk. All requests shall be filed during the time for notice of contest of election for which a recount is sought.
- (2) The votes shall be recounted as provided in this section if the requesting candidate files with the city clerk a bond, cash, or surety in an amount set by the city for payment of the recount expenses.

(c) Notice of contest. Time for notice of contest of election to a municipal office which is recounted pursuant to this section shall begin to run upon certification of the results by the city council.

(d) Scope of recount. A recount conducted as provided in this section is limited in scope to the determination of the number of votes validly cast for the office to be recounted. Only the ballots cast in the election and summary statements certified by the election judges may be considered in the recount process.

(e) The provisions of Minnesota Statutes Section 205.185, as amended, govern recounts of municipal elections.

### **§ 3.16 ELECTRONIC VOTING SYSTEMS.**

All provisions of Minnesota Statutes pertaining to electronic voting equipment systems apply, to the extent they are not inconsistent with this article. Any voting equipment system used to conduct an election under this section must be authorized by the county auditor pursuant to Minnesota Statutes Section 206.58, as amended.

### **§ 3.17 TESTING OF VOTING SYSTEMS.**

The chief election official shall have the voting system tested to verify that the system will correctly mark ballots using all methods supported by the system, and count the votes cast for all candidates and on all questions per Minnesota Statutes Section 206.83, as amended. In addition to all requirements of Minnesota Statutes Section 206.83, as amended, the equipment must be tested to ensure that each ranking for each candidate is recorded properly, and must be tested to ensure the accuracy of software used to perform vote transfers and produce results.

### **§ 3.18. POST-ELECTION REVIEW OF TABULATION OF RESULTS.**

(a) The chief election official shall oversee a post-election review of the tabulation results, except in cases where the initial tabulation was conducted using a hand count of ballots, in which case a post-election review is not required.

(b) Selection of review date; notice. At canvass, the chief election official must set the date, time and place for the post-election review. The post-election review shall be open to the public and notice of its date, time and place shall be posted at the tabulation center at least 72 hours prior to its start.

(c) Scope of review. The post-election review shall encompass all votes cast for one district seat on the City Council that was not decided solely by a first ranked choice tabulation. Except:

(1) If there was more than one district seat that was not decided solely by a first ranked choice tabulation, the chief election official shall select, by lot, the district seat to be counted. If there are no district seats that proceeded to a second round tabulation, then the review shall be done on the votes for a city-wide race that was not decided solely by a first ranked choice tabulation. In elections where there was more than one city-wide race that was not decided solely by a first ranked choice tabulation, the chief election official shall select the office by lot.

(2) If there are no city-wide municipal offices and no district seats on the city council that proceeded to second round tabulation, then there shall be no post-election review of the tabulation.

(d) Using the actual ballots cast for the office selected, election judges shall conduct a hand count tabulation of ballots cast, using procedures called for in this article and administrative rules.

(e) Standard of acceptable performance by voting system. A comparison of the results compiled by the tabulation method with the results compiled by the post-election review must show that the results differed by no more than the applicable percentage requirement, as provided by Minnesota Statutes, Section 206.89 subd. 4, as amended. Valid votes that have been marked by the voter outside the vote targets or using a manual marking device that cannot be read by the voting system must not be included in making the determination whether the voting system has met the standard of acceptable performance.

(f) Additional review if needed. Additional review(s) may be required as follows:

(1) First additional review. If a test under clause (c) reveals a difference greater than the applicable percentage threshold, as provided by Minnesota Statutes, Section 206.89, subd. 4, as amended, the chief election official must immediately select by lot an additional race for review. The additional review must be completed within two (2) days after the office is selected and the results immediately reported to the county auditor.

(2) Second additional review. If the first additional review also indicates a difference in the vote totals that is greater than the applicable percentage threshold, as provided by Minnesota Statutes, Section 206.89, subd. 4, as amended, the chief election official must conduct a review of all remaining municipal offices on the ballot. This review must be completed no later than two (2) weeks after the canvass.

(g) Report of results. Upon completion of the post-election review, the chief election official must immediately report the results to the county auditor and make those results public.

(h) Update of vote totals. If the post-election review under this section results in a change in the number of votes counted for any candidate, the revised vote totals must be incorporated in the official result.

(i) Effect on voting systems. If a voting system is found to have failed to record votes accurately and in the manner provided by this article, the voting system may not be used at another election until it has been approved for use by the county auditor, pursuant to Minnesota Statutes Section 206.58, as amended. In addition, the county auditor may order the city to conduct a hand recount of all ballots cast in the election.

Section 3. That this ordinance is effective upon publication.

Passed and adopted this 26<sup>th</sup> day of April, 2021.

/s/ Tim Busse  
Mayor

ATTEST:

/s/ Denise M. Christenson  
Secretary to the Council

APPROVED:

/s/ Melissa Manderschied  
City Attorney