Amended Proposed Ordinance 1/19/11

An Ordinance creating election rules for municipal elections under ranked-choice voting.

The Council of the City of Saint Paul does Ordain:

Section 1.

That the Legislative Code of the City of Saint Paul be amended by adding a new Chapter 31:

31.01. Applicability.

This chapter applies to municipal elections for Mayor and Councilmember consistent with Chapter 7 of the Charter

31.02. Definitions.

The following words and phrases when used in this chapter shall have the meanings respectively ascribed to them in this section:

Batch elimination means a simultaneous defeat of multiple continuing candidates for whom it is mathematically impossible to be elected.

Chief election official means the city clerk and his or her designee.

Continuing candidate means a candidate who has been neither elected nor defeated.

Duplicate ranking occurs when a voter ranks the same candidate at multiple rankings for the office being counted.

Exhausted ballot means a ballot that cannot be advanced under section 31.06(a)(2).

Highest continuing ranking means the ranking on a voter's ballot with the lowest numerical value for a continuing candidate.

Mathematically impossible to be elected means either:
(1) The candidate could never win because his or her current vote total plus all votes that could possibly be transferred to him or her in future rounds (from candidates with fewer votes and tied candidates) would not be enough to 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).

An *overvote* occurs when a voter ranks more than one (1) candidate at the same ranking.

Partially defective ballot ~~means a ballot that is defective to the extent that the election judges are unable to determine the voter's intent with respect to the office being counted.~~

Ranked ~~choice~~ voting means an election method in which voters rank candidates for an office in order of their preference and the ballots are counted in rounds that simulate a series of runoffs until one (1) candidate meets the threshold, or until two (2) candidates remain and the candidate with the greatest number of votes is declared elected.

Ranked ~~choice~~ voting tabulation center means the place selected for the ~~automatic~~ electronic or manual processing and tabulation of ballots and/or votes.

Ranking means 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. A ranking of lower numerical value indicates a greater preference for a candidate than a ranking of higher numerical value.

Round means an instance of the sequence of voting tabulation steps established in section 31.06 of this chapter.

Skipped ranking occurs when a voter leaves a ranking blank and ranks a candidate at a subsequent ranking.

Threshold means the number of votes sufficient for a candidate to be elected. In any given election, the threshold equals the total votes counted in the first round ~~after removing partially defective ballots~~, divided by ~~the~~ two (2) and adding one (1) to the quotient, disregarding any fractions. Threshold = (Total votes cast)/(2) +1, with any fractions disregarded.

Transferable vote means a vote for a candidate who has been either elected or defeated.

Totally defective ballot ~~means a ballot that is defective to the extent that the election judges are unable to determine the voter's intent for any office on the ballot.~~

An *undervote* occurs on any round of voting when a voter does not rank any candidates for an office.

31.03. Ballots.

(a) *Ballot format.*

(1)   When there are ~~three (3)~~ six (6) or more qualified candidates, a ballot must allow a voter to rank at least ~~three (3)~~ six (6) candidates for each office in order of preference and must also allow the voter to add write-in candidates. ~~A ballot must allow as many rankings as practical within the constraints of the voting machines and the capacity of the County to hand count choices beyond the first choice.~~ When there are fewer than six (6) candidates, the ballot must allow the voter to rank each candidate for office.

(2) To the greatest extent practical, the ballot design shall:

(A) Allow for ~~machine~~ electronic counting of first rankings, and preferably for ~~at least the first three~~ all rankings, so that early round winners can be identified on election night;

(B) Allow the voting ~~machines~~ systems to detect errors in ballot marking for at least the first ranking, and preferably ~~for at least the first three~~ all rankings, to provide an opportunity for a voter to correct a mismarked ballot; and

(C) ~~Be clear and user-friendly, based on effective ranked-choice ballot designs in use elsewhere in the United States, with input from design consultants and with usability testing prior to ballot implementation.~~

(3)   A ballot must include instructions to voters that clearly indicate how to mark the ballot so as to be read by the election judges conducting the count, or if a voting ~~equipment~~ system is to be used, so as to be read by the voting equipment used to tabulate results.

(4)   A ballot must include instructions to voters that clearly indicate how to rank candidates in order of the voter's preference.

(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 election must be on the same ballot card if possible, with ranked-~~choice~~ voting and non-ranked-~~choice~~ voting portions clearly separated on the ballot card. If placement of all offices to be elected cannot be placed on a single ballot card, a separate ballot card 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.~~

(c)   *Ballot design and instructions timeline.*
      ~~The ballot design be finalized no later than the filing date for the offices on the ballot so that education materials for voters, candidates and election judges can be developed and delivered in a timeframe that allows for a broad education program.~~

The ballot design for the general election must be established no later than 14 days before the first day to file affidavits of candidacy for the offices on the ballot. The chief election officer must provide instructional and educational materials for voters, candidates and election judges on the ranked voting method no later than eight weeks before the general election. All election judges must receive training in the election procedures to be used for ranked voting no later than one week before the general election.

(d)   Ballot format rules.
The chief election official shall establish administrative rules for ballot format after a voting mechanism has been selected. All rules shall be adopted in accordance with this section.

31.04. Ranked~~ choice~~ voting tabulation center.

The chief election official shall designate one (1) location to serve as the ranked~~ choice~~ voting tabulation center. The center must be accessible to the public for the purpose of observing the vote tabulation. Tabulation of votes must be conducted as described in section 31.06 and of this chapter.

31.05. Tabulation of votes; in general.

~~(a)   *Precinct tabulation.*~~
~~When the hours for voting have ended and all voting has concluded, the election judges in each precinct shall record and publicly declare the number of votes at each ranking on the ballot. The election judges must then securely transfer all electronic voting data and ballots from the precinct to the ranked-choice voting tabulation center designated pursuant to section 31.40 of this chapter. Upon receipt at the ranked-choice voting tabulation center, all electronic voting data and ballots shall be secured.~~

~~(b)   *Notice of recess in count.*~~
~~At any time following receipt of materials per 31.05(a) the chief election official may declare a recess. Notice of such recess must include the date, time and location at which the process of recording and tabulating votes will resume and the reason for the recess. Notice shall be posted on the city's official bulletin board and on the door of the ranked-choice voting tabulation center.~~

~~(c)   *Recording write-in votes.*~~
~~At a time set by the chief election official, the judges of the election shall convene at the ranked-choice voting tabulation center to examine ballots on which voters have indicated a write-in choice, and record the names and number of votes received by each write-in candidate. In the event that votes cast for the write-in category are not eliminated as provided in section 31.06(b), the results must be entered into the ranked-choice voting tabulation software.~~

(c) ~~Ranked-choice vote tabulation.~~

~~After all votes for all candidates have been recorded and at a time set by the chief election official, the process of tabulating votes cast for offices to be elected using the ranked-choice method shall begin. The counting shall continue until preliminary results for all races are determined, subject to provisions contained in 31.05(b).~~

(a) *Precinct tabulation.*

At the close of voting on election day, the election judges in each precinct shall report the number of votes cast in each ranking to the chief election official. After all vote totals have been reported by the election judges, the chief election official must establish the threshold for each office on the ballot.

(b) *Canvass of votes for general election; declaration of runoff.*

No earlier than three and no later than ten days after the general election, the city council shall canvass the results of the general election. If any candidate has received a number of votes equal to or greater than the ~~target~~ threshold established for that office, that candidate shall be declared to be elected. If no candidate for the office has received a number of votes equal to or greater than the threshold for the office, the council shall authorize a runoff for that office and establish the date, time and place for the runoff. The runoff must be completed no later than ten days following the completion of the canvass of the general election. The city council shall canvass the results of the runoff no later than ten days following the completion of the runoff.

(c) *Recording and counting write-in votes.*

A candidate who wants write-in votes for the candidate to be counted in the general election or the runoff must file a written request with the chief election official no later than seven days before the general election. If a runoff is required, all write-in votes cast for candidates who have not filed a written request to have these votes counted shall be treated collectively as votes for a single candidate.

31.06. Tabulation of votes~~; single-seat elections~~.

(a) *Applicability.*

This section applies to a ranked ~~choice~~ voting election for Mayor and for Councilmember. This method of tabulating ranked ~~choice~~ votes as described in this section shall be known as the "~~single-seat~~ single transferable vote" method of tabulation.

~~(1)   Tabulation of votes at the ranked-choice voting tabulation center must proceed in rounds for each office to be counted. The threshold must be calculated and publicly declared. Each round must proceed sequentially as follows:~~

~~a.   The number of votes cast for each candidate, as indicated by the highest continuing ranking on each ballot,~~

~~must be counted. If a candidate's vote total is equal to or greater than the threshold, that candidate is declared elected and the tabulation is complete. If no candidate's vote total is equal to or greater than the threshold, a new round begins and the tabulation must continue as described in clause b.~~

(1)   Counting and reallocation of votes at the ranked voting tabulation center must proceed in rounds for each office to be counted. Each round must proceed sequentially as follows:

(A) All candidates for whom it is mathematically impossible to be elected must be eliminated simultaneously and their votes reallocated to the continuing candidate with the next highest rank on the ballot.

(B) After the votes have been reallocated, the number of reallocated votes cast for each continuing candidate must be counted. If one candidate's vote total is equal to or greater than the threshold, that candidate is declared elected and the runoff for that office is concluded. If no candidate's vote total is equal to or greater than the threshold, a new round begins and the counting and reallocation of votes must continue as described in clause (A).

~~b.~~ (C) ~~All candidates for whom it is mathematically impossible to be elected must be defeated simultaneously. Votes for the defeated candidates must be transferred to each ballot's next-ranked continuing candidate.~~ If no candidate can be defeated mathematically, the tabulation must continue as described in clause ~~c~~(D). Otherwise, the tabulation must continue as described in clause ~~d~~(E).

~~c.~~(D)   The candidate with the fewest votes is defeated. Votes for the defeated candidate must be transferred to each ballot's next-ranked continuing candidate. Ties between candidates with the fewest votes must immediately and publicly be decided by lot by the chief election official at the ranked-choice voting tabulation center. The candidate chosen by lot is defeated. The result of the tie resolution must be recorded and reused in the event of a recount.

(E)   The procedures in clauses (A) to (D) must be repeated until one (1) candidate reaches the threshold, or

until only two (2) continuing candidates remain. If only two (2) candidates remain, the candidate with the most votes is elected. Ties between two (2) continuing candidates must immediately and publicly be decided by lot by the chief election official at the ranked voting tabulation center. The candidate chosen by lot is elected. In the event of a recount, this result is binding if there is a tie.

~~d.   The procedures in clauses a. to c. must be repeated until one (1) candidate reaches the threshold, or until only two (2) continuing candidates remain. If only two (2) candidates remain, the candidate with the most votes must be elected. Ties between two (2) continuing candidates must immediately and publicly be decided by lot by the chief election official at the ranked-choice voting tabulation center. The candidate chosen by lot is the winner. The result of the tie resolution must be recorded and reused in the event of a recount.~~

~~(2)   When a single skipped ranking is encountered on a ballot, that ballot shall count towards the next non-skipped ranking. If any ballot cannot be advanced because no further continuing candidates are ranked on that ballot, or because a voter has skipped more than one (1) ranking or because an undervote, overvote, or duplicate ranking is encountered, the ballot shall not count towards any candidate in that round or in subsequent rounds for the office being counted.~~

(2)   When a skipped ranking is encountered on a ballot, that ballot shall count towards the next non-skipped ranking. If any ballot has no votes for a continuing the ballot shall not count towards any candidate in that round or in subsequent rounds for the office being counted.

31.07. 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)   *~~Ranked-choice voting tabulation center s~~Summary runoff 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,

surplus transfers, 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 same day voter registrations, and the number of absentee voters.

31.08. Recounts.

(a) *Required recounts.*
A candidate defeated in the final round of tabulation may request a recount of the votes cast for the election to that office if the difference between the final round vote total for that candidate and for a winning candidate is less than one-half (1/2) of one (1) percent of the total votes counted for that office.

> (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 the 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.*
Candidates defeated in the final round of tabulation when the vote difference is greater than the difference required by section 31.08(a), and candidates defeated in an earlier round of counting, may request a recount in the manner provided in this section at the candidate's own expense. 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 governing body of the municipality.

(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.

(a) *Required recounts.*
A candidate eliminated in the final round of may request a recount of the votes cast for the election to that office if the difference between the final round vote total in the final round of the runoff for that candidate and

for a winning candidate is less than one-quarter (1/4) of one (1) percent of the total votes counted for that office.

(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 the election for which a recount is sought.

(2)   Upon receipt ~~of a request made pursuant to this section~~ of a written request, the city shall recount the votes for a municipal office at the expense of the city.

(b)   *Discretionary candidate recounts.*
Candidates eliminated in the final round of the ~~voting~~ runoff when the vote difference is greater than the difference required by section 31.08(a), and candidates eliminated in an earlier round of ~~voting~~ the runoff, may request a recount in the manner provided in this section at the candidate's own expense. A recount for a candidate eliminated before the final round of ~~voting~~ the runoff must continue only to the point that the candidate is eliminated. 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 before the recount begins.

(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 governing body of the municipality.

(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)   *Challenges during recount of the runoff.*
Challenges that occur during a recount of the results of a runoff may take place only during the process in which ballots are separated into piles by candidate.

(f)   *Waiver of recount*
A candidate who requests a recount may waive the recount at any time.

31.09. Manual count procedures.

The chief election official shall establish administrative procedures for conduct of a manual count in accordance with rules for counting the votes contained in section 31.06 of this chapter

31.10. Electronic voting systems.

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

31.11. Testing of voting systems.

The chief election official shall have the voting system tested to ascertain 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 Statute Section 206.83. In addition to all requirements of Minnesota Statute Section 206.83, 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.

In the event an electronic voting system capable of tabulating the runoff as provided in this chapter becomes so authorized, it may be used in city elections, provided that at least one (1) year before its use in a city election, the chief election official reports in writing to the council the existence of the authorization and recommends such testing protocols, in addition to state requirements, as may be warranted in her or his opinion.

31.12. Post-election review of voting system; ranked-choice voting elections.

(a) *Selection of test date; notice.*
Thirty (30) days before a ranked-choice election that will be conducted using electronic voting equipment to tabulate results, the chief election official must set the date, time, and place for conduct of a post-election review, and must also set the date, time and place for the random selection of contests to be reviewed.

(b) *Scope and conduct of test.*
The post-election review must be conducted, in public, of a sample of votes cast for Mayor or for at least one (1) election for city council. At least one (1) precinct selected in each review must have had at least one thousand five hundred (1,500) votes cast in the election.

(c) *Single seat test.*
No later than two (2) days following completion of the vote tabulation, the chief election official shall select two (2) precincts by lot. Using the actual ballots cast in the two (2) precincts selected, the judges of the election shall conduct a manual count of votes cast for the office of council member using procedures called for in section 31.09 of this chapter and accompanying rules. The judges shall make a record of the votes cast and vote transfers made. Upon determining the outcome of the

manual count, the judges shall perform a second test with the same ballots where votes cast are read and counted by the same voting equipment used in the precincts on election day, and shall determine the outcome of the count using the same software used to perform vote transfers at the ranked-choice counting center.

(d) *Standard of acceptable performance by voting system.*
A comparison of the results compiled by the voting system with the results compiled by the judges of election performing the manual count must show that the results of the electronic voting system differed by no more than one-half (1/2) of one (1) percent from the manual count of the sample tested. 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.

(e) *Additional review.*
If the post-election review reveals a difference greater than one-half (1/2) of one (1) percent, in one (1) precinct, the post-election review official must, within two (2) days, conduct an additional review of two (2) more precincts in the same jurisdiction where the discrepancy was discovered. The chief election official must immediately publicly select by lot additional precincts for review. The additional review must be completed within two (2) days after the precincts are selected and the results immediately reported to the county auditor. If the second review also indicates a difference in the vote totals compiled by the voting system that is greater than one-half (1/2) of one (1) percent, in one (1) precinct, from the result indicated by the post-election review, the chief election official must conduct a review of the ballots from all the remaining precincts in the contest being reviewed. This review must be completed no later than two (2) weeks after the election.

(f) *Report of results.*
Upon completion of the post-election review, the chief election official must immediately report the results to the county auditor and be made public.

(g) *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 from those precincts.

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

~~*(i)   Penalties to voting equipment system vendor.*~~

~~If the voting system failure is attributable to either its design or to actions of the vendor, the vendor is liable for the cost of a manual recount ordered per section 31.12(h) and is liable for additional penalties imposed per agreement between the city and the vendor~~

~~31.13. Primary date for campaign reports pursuant to Minn. Stat. § 383B.048.~~

~~For the sole purpose of filing campaign reports pursuant to Minn. Stat. § 383B.048, subd. 1, the City hereby designates the first Tuesday after the second Monday in September during municipal election years as the date for a regular primary. Campaign reports will be due one (1) week prior to this date, as provided in Minn. Stat. § 383B.048, subd. 1, as if a primary were being held for such elective offices, notwithstanding the elimination of primary elections for municipal offices pursuant to Charter Chapter 7.~~

Section 2.

This ordinance shall become effective thirty (30) days after passage, approval and publication.