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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2021-__

INTRODUCED BY:

Councilor Michael J. Garcia

AN ORDINANCE

**AMENDING SECTION 9-1.7 SFCC 1987 REGARDING RANKED CHOICE VOTING TO
AMEND HOW A TIE VOTE BETWEEN TWO CANDIDATES IS RESOLVED.**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

**Section 1. Section 9-1.7 of SFCC 1987 (being Ord. No. 2017-26, § 1, as amended)
is amended to read:**

9-1.7 Ranked Choice Voting.

A. *Authority.* The city has the authority to enact this section under all powers possible for a city to have under the constitution and laws of New Mexico by virtue of its enactment of its charter pursuant to the provisions of Article X, Section 6 of the New Mexico Constitution, and pursuant to the New Mexico Municipal Charter Act including all implied powers and all powers necessary to implement all express powers of the city, as if each and every one of the city's implied powers were fully, completely and expressly enumerated in its charter.

B. *Definitions.* As used in this section, the following terms have the following meanings:

1 (1) *Choice* means an indication on a ballot of a voter's assigned ranking of
2 candidates (i.e., first choice, second choice, third choice) for any single office according
3 to the voter's preference.

4 (2) *Continuing ballot* means a ballot that counts towards a continuing
5 candidate.

6 (3) *Continuing candidate* means a candidate that has not been eliminated.

7 (4) *Duplicate ranking* means a voter has ranked the same candidate at
8 multiple rankings for the office being counted. The highest ranking for the candidate is
9 valid and any lower rankings of that candidate shall be ignored.

10 (5) *Exhausted ballot* means a ballot that cannot be advanced because no
11 further continuing candidates are ranked on that ballot.

12 (6) *Incorrectly marked ballot* means a ballot showing an overvote,
13 undervote, duplicate ranking, skipped ranking, or unused ranking, and shall be rejected
14 with an error message. A person who accidentally spoils or erroneously prepares the
15 ballot may return the spoiled or erroneously prepared ballot to the election judge and
16 receive a new ballot.

17 (7) *Majority of votes* means fifty (50) percent plus one (1) of the votes cast
18 for a continuing candidate.

19 (8) *Next ranked* means the highest ranked choice for a continuing candidate.

20 (9) *Overvote* means a voter has ranked more than one candidate at the same
21 ranking. If a voter gives the same ranking to more than one (1) candidate, the voter's
22 rankings shall be counted in order of preference, stopping at the point where the ballot
23 contains the same ranking for more than one (1) candidate.

24 (10) *Ranked choice voting* means an election system in which voters rank the
25 candidates for office in order of preference, and the ballots are counted in rounds that

1 simulate a series of runoffs until one candidate receives a majority of votes. Ranked
2 choice voting is also known as "instant runoff voting."

3 (11) *Round of counting or round* means a step in the counting process during
4 which votes for all continuing candidates are tabulated for the purpose of determining
5 whether a candidate has achieved a majority of the votes cast for a particular office and,
6 absent a majority, which candidate or candidates must be eliminated.

7 (12) *Skipped ranking* means a voter has left a ranking blank and ranks a
8 candidate in a subsequent ranking. If a voter skips a numerical ranking, the skipped
9 ranking will be ignored and the next indicated ranking on that ballot will be valid.

10 (13) *Undervote* means a voter did not rank any candidates for an office.

11 (14) *Unused ranking* means the voter has ranked at least one (1), but not all,
12 candidates.

13 (15) *Vote* means a ballot choice that is counted toward the election of a
14 candidate. During each round of counting, each continuing ballot contains one vote. All
15 first choices are votes and lower ranked choices are potential runoff votes that may, in
16 accordance with the requirements of this section, become votes and subsequently
17 credited for a continuing candidate.

18 C. *General Provisions.*

19 (1) Ranked choice voting elections for the offices of mayor, councilor and
20 municipal judge shall be conducted according to the procedures in this section.

21 (2) Ranked choice voting shall commence with the 2018 regular municipal
22 election and continue for all regular municipal elections thereafter unless later repealed
23 or invalidated by a subsequent federal, state or city law, statute, rule, regulation, or
24 ordinance.

25 (3) The New Mexico secretary of state must certify the software prior to the

1 use of ranked choice voting.

2 D. *Ballot.* The ranked choice voting ballot shall allow voters to rank all choices.

3 E. *Tabulation.* The ballots shall be counted in rounds.

4 (1) In the first round, every ballot shall count as a vote towards the first
5 choice candidate.

6 (2) After any round, if any candidate receives a majority of votes, that
7 candidate shall be declared the winner.

8 (3) If no candidate receives a majority of votes, the candidate receiving the
9 fewest number of votes shall be eliminated.

10 (4) Every ballot counting towards the eliminated candidate shall be
11 transferred to the next ranked continuing candidate. All the continuing ballots for all
12 continuing candidates shall be counted again in a new round.

13 F. *Ties.* ~~[In the event that two (2) or more candidates tie for the fewest number of~~
14 ~~votes, the candidate to eliminate shall be chosen by lot]~~ If a tie between candidates occurs at any
15 stage in the tabulation, the tie shall be resolved in favor of the candidate who received the greatest
16 number of combined first choice votes and transferred votes at the previous stage of tabulation.
17 If the first round tabulation results in a tie between candidates, the tie shall be resolved against
18 the candidate who received the least number of combined second choice votes.

19 G. *Severability.* The requirements and provisions of this section and their parts,
20 subparts and clauses are severable. In the event that any requirement, provision, part, subpart or
21 clause of this section, or the application thereof to any person or circumstance, is determined to
22 be impossible of performance, or held to be invalid or unenforceable by a court of competent
23 jurisdiction, it is the intent of the governing body that the remainder of the section be enforced
24 to the maximum extent possible consistent with the governing body's purpose of this Campaign
25 Code.

1 APPROVED AS TO FORM:

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4 ERIN K. MCSHERRY, CITY ATTORNEY

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25 *Legislation/2021/Bills/Ranked Choice Tie Votes*