Executive summary

**Title:** First reading of ordinance amending St. Louis Park City Code Chapter 10 related to the rules of conduct for municipal elections

**Recommended action:** Motion to approve first reading of ordinance amending St. Louis Park City Code Chapter 10 related to the rules of conduct for municipal elections and to set the second reading for December 3, 2018.

**Policy consideration:** Do the proposed rules of conduct for municipal elections meet all state and federal election laws and do they provide the necessary provisions to use the ranked-choice voting method for municipal (mayor and city council) elections?

**Summary:** On May 7, 2018 the city council approved an ordinance amending the city charter to allow for the use of ranked-choice voting for municipal (mayor and city council) elections. Once a city makes the decision to use an alternative voting method, it’s required to provide the rules that will govern the administration of municipal elections. State law does not currently speak to the rules for the administration of elections using a ranked-choice method. The city is obligated to ensure that rules for conduct of municipal elections continue to meet all state and federal election laws where applicable. The proposed ordinance does not apply to school district elections because the school district is required, by state law, to follow statutory provisions and does not have the authority to use alternative voting methods at this time.

In June, 2018 the council started a series of discussions related to the development of rules of conduct for municipal elections. Over the course of four (4) discussions, numerous topics were discussed including: ballot format, number of rankings, tabulation of votes, write-ins, method of resolving ties, counting procedures, voting systems, testing, reporting results, post-election review, and recounts. Staff incorporated the direction provided by council during these discussions into the proposed ordinance. The draft ordinance was provided to council for review as part of the October 22 study session agenda. Previous staff reports and minutes from each of these discussions are currently available for review on the city’s website.

The second reading of the ordinance is scheduled for December 3, 2018. If adopted, the proposed ordinance would take effect on December 28. The rules set forth in the ordinance would then apply to the 2019 municipal election. An extensive public education and outreach program would begin in early 2019 in preparation for the use of RCV in November, 2019.

**Financial or budget consideration:** The 2019 budget includes funds for implementation of the rules and procedures for the administration of municipal elections.

**Strategic priority consideration:** St. Louis Park is committed to creating opportunities to build social capital through community engagement.

**Supporting documents:** Discussion, Draft ordinance

**Prepared by:** Melissa Kennedy, City Clerk
**Reviewed by:** Nancy Deno, Deputy City Manager/HR Director
**Approved by:** Tom Harmening, City Manager
DISCUSSION

Which elections and offices will be subject to the rules set forth in the ordinance?
The proposed ordinance will only apply to municipal elections in which the offices of mayor and city council are on the ballot. Municipal elections typically happen in odd-numbered years. The proposed ordinance will not apply to elections for any federal, state, county, or school district offices because those offices are not elected using a ranked-choice method.

How many rankings will be allowed for each municipal office on the ballot?
The number of rankings allowed for each race on the ballot must fit within the overall framework established in state laws and regulations. Additionally, the number of rankings allowed needs to be compatible with existing, certified technology that complies with the tabulation method that has been tested and used in Minneapolis and administratively supported by Hennepin County.

Council directed staff to draft rules that would allow voters at least three (3), but not more than six (6), rankings for any municipal office on the ballot. This language allows for a potential increase in the number of rankings allowed at such time that new equipment or technology is available to tabulate beyond three (3) rankings. Additionally, allowing for up to six (6) rankings has been shown to reduce the number of exhausted ballots in large, competitive elections.

Why is the city following the Minneapolis model for ranked-choice elections?
Because ranked-choice voting is already used in Minneapolis, a model ordinance for the rules of conduct for municipal elections is readily available. Council made the decision to follow the Minneapolis model because these rules have already been deemed legal by the courts and they have been tested and proven to work in conjunction with the current voting equipment and administrative procedures in place in Hennepin County.

Will the ballot look different than what voters in St. Louis Park are used to?
In order to ensure voters understand and are comfortable using a RCV ballot, the ballots will, wherever possible, conform to the ballot format styles established in Minnesota Statutes and Rules for statewide elections. Voters will continue to fill in ovals to indicate their selections for each office. The ballot will be two-sided with municipal races on one side (ranked-choice method) and school district races (not ranked-choice) on the opposite side. The side of the ballot containing races for municipal offices will feature a three-column design. The three-column ballot design allows voters to rank up to three (3) choices for a given race on the ballot. Due to current equipment limitations, going beyond three (3) rankings is not a viable option at this time as it would necessitate a manual hand count process.

How many votes will be required for a candidate to be elected?
In a ranked-choice election a candidate is required to reach an established threshold in order to be elected. This is different than a traditional first past the post system in which the candidate receiving the most votes wins. The council directed the threshold in St. Louis Park to be calculated as 50%+1 of the total votes cast for an office. If no candidate reaches the threshold, and only two candidates remain, the candidate with the most votes will be declared the winner.
How long will it take to tabulate results?
There are many factors that can impact the amount of time it will take to declare winners for each municipal race on the ballot including, the number of candidates running for each office and the number of ballots cast. If a candidate successfully reaches the threshold when first choice votes are tabulated on election night, that candidate will be declared the winner. If no candidate reaches the threshold after the first choice votes are tabulated, the ranked-choice process will kick in and results will not be available on election night. Staff will begin the ranked-choice tabulation process the day after the election and will continue that process until a winner can be declared. Every effort will be made to expedite this process as much as possible and to keep the public informed as results are tabulated.

Are voters required to rank all three choices for each municipal office on the ballot?
Voters are eligible to vote for each office that appears on their ballot. Voters are not required to rank their choices. Voters are not required to vote for every office that appears on their ballot. If a voter does not vote for a particular office on the ballot, their ballot will not count towards the total ballots cast for that particular office. Their ballot will count towards the total ballots cast for all other offices on the ballot in which they cast a valid vote.

If a voter chose the same candidate for all three (3) rankings does it increase the candidate’s chance of winning?
No, selecting the same candidate for all three rankings will not increase the candidate’s chances of winning.

Will the ballot counter alert voters if they have made an error on their ballot?
Similar to what currently happens, the ballot counter will alert voters if they have overvoted in a race (selected more candidates than allowed) or if they have submitted a blank ballot. For municipal offices an overvote will occur if a voter selects more than one candidate per ranking. For example, an overvote occurs if a voter ranks more than candidate as their first choice. In this instance a voter would be given the choice to either cast their ballot as-is or to spoil their ballot and receive a new one. This is the same process that happens now when a voter makes an error in marking their ballot.

Will write-in votes still be allowed for municipal offices?
Yes, write-in votes will still be allowed for municipal offices. A voter can write-in a candidate for all three rankings if they so choose. Candidates who wish to have their write-in votes counted must file a written request with the city clerk’s office at least seven (7) days prior to Election Day.

What happens if a race ends in a tie?
If a race ends in a tie, the chief election official will decide the tie by lot. This is the same procedure currently used under state law.
Ordinance No. ___-18

Ordinance amending the St. Louis Park City Code Chapter 10 by adding Article I, Sections 10-3 to 10- related to the conduct of municipal elections

PREAMBLE

Whereas, the St. Louis Park Home Rule Charter has been amended to allow voters to elect the city’s elected officials by single-transferable voting (also known as ranked-choice voting or instant runoff voting); and

Whereas, the St. Louis Park Home Rule Charter states that the city council must provide by ordinance the method of counting votes and of breaking a tie.

The City of St. Louis Park does hereby ordain:

Section 1. Chapter 10 of the St. Louis Park City Code is amended by adding Article I, Sections 10-3 to 10-16 to provide the rules of conduct for municipal elections.

Article I. Rules of conduct for municipal elections.

10-3. Applicability.
This article applies to all municipal elections. All provisions of the St. Louis Park Home Rule Charter and Minnesota Statutes pertaining to elections also apply, to the extent they are not inconsistent with this chapter.

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 includes the city clerk’s designee(s).

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

*Declared write-in candidate(s)* means a candidate(s) who has filed a written request to have write-in votes for the candidate(s) counted with the chief election official no later than seven (7) days before the general or special election.

*Exhausted ballot* means a ballot that cannot be advanced under any rule.

*Highest continuing ranking* means the ranking on a voter’s ballot with the lowest numerical value for a continuing candidate.
Mathematically eliminated 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, tied candidates, surplus votes, and from undeclared 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 means mathematically eliminated by the next higher current vote total comparison.

Maximum possible threshold means the number of votes sufficient for a candidate to be elected under a first ranked choice tabulation. In any given election, the maximum possible threshold equals the total ballots cast that include votes, undervotes, skipped rankings, and overvotes for the office, divided by the sum of one (1) plus the number of offices to be filled, then adding one (1).

\[
\text{Maximum Possible Threshold} = \frac{(\text{Total ballots cast that include votes, undervotes, skipped rankings, and overvotes for the office})}{(\text{Seats to be elected} + 1)} + 1
\]

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 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 means the location selected by the chief election official for the tabulation of 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.

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

Round means 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** means the sum of all votes for a candidate at every ranking for an office, including all repeat candidate rankings.

*Surplus* means the total number of votes cast for an elected candidate in excess of the threshold.

*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 sum of one (1) plus the number of offices to be filled, then adding one (1).

\[
\text{Threshold} = \frac{\text{(Total votes cast)}}{\text{(Seats to be elected + 1)}} + 1
\]

*Transferable vote* means a vote for a candidate who has been 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.

*Undeclared write-in candidate* means a write-in candidate who is not a declared write-in candidate.

*Undervote* means an instance when a voter does not rank any candidates for an office.

### 10-5. Ballots.

(a) **Ballot format.**

1. When there are three (3) or more candidates for a single office, a ballot must allow a voter to rank at least three (3), but not more than six (6), candidates for each office in order of preference and must also allow the voter to add write-in candidates.
2. 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 voting equipment is to be used, so as to be read by the voting equipment used to tabulate results.
3. A ballot must include instructions to voters that clearly indicate how to rank candidates in order of the voter’s preference.
4. A ballot must indicate the number of seats to be elected for each office.

(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.

(c) **Ballot format rules.** The chief election official shall establish administrative rules for ballot format for each voting mechanism that is selected. All rules shall be adopted in accordance with this section.
10-6. 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 chapter.

10-7. Write-in votes.
A candidate for municipal office who wants write-in votes for the candidate to be counted as votes must file a written request with the chief election official no later than seven (7) days before the general or special election. The chief election official shall provide copies of the form to make the request.

10-8. 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 post the number of votes at each ranking on the ballot. The election judges must then securely transfer all election night materials and ballots from the precinct to the location designated by the chief election official. Upon receipt, election night materials and ballot shall be secured.

(b) Notice of recess in count. At any time following receipt of materials, the chief election official may declare a recess. Notice shall be posted 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.

(c) Recording write-in votes. At a time set by the chief election official, the judges of the election shall convene at a ranked-choice voting tabulation center to record the names and number of votes received by each declared write-in candidate. The number of votes received by undeclared write-in candidates will be recorded as a group, by office.

(a) Applicability. This section applies to a ranked-choice voting election in which one (1) seat in an office is to be filled from a single set of candidates on the ballot. The method of tabulating ranked-choice votes for single-seat elections as described in this section must be known as the “single-seat transferable vote” method of tabulation.

(b) First ranked choice tabulation. A first ranked choice tabulation shall be done under this clause before a tabulation as described in clause (c). A first ranked choice tabulation will consist of a first round only. Under the first ranked choice tabulation, the vote total will be the sum of number one (1) ranked votes. The maximum possible threshold must be determined. If the vote total for a candidate, other than an undeclared or a declared write-in candidate, is equal to or greater than the maximum possible threshold, that candidate is declared elected and the tabulation is complete. If the vote total for no candidate, other than an undeclared or a declared write-in candidate, is equal to or greater than the maximum possible threshold, a tabulation, as described in clause (c) shall be done.
(c) Tabulation of round(s).

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. The sum of all ranked-choice votes for every candidate must be calculated. 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, other than an undeclared write-in candidate, has a vote total that is equal to or greater than the threshold that candidate is declared elected and the tabulation is complete. If no candidate, other than an undeclared write-in candidate, has a vote total that is equal to or greater than the threshold, a new round begins and the tabulation must continue.

   b. At the beginning of the second round only, all undeclared write-in candidates and all candidates for whom it is mathematically impossible to be elected must be defeated simultaneously. For rounds subsequent to the second round, 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, except votes for candidates defeated in the final round are not transferred if, by their defeat, the number of continuing candidates is reduced to one (1). If no candidate can be defeated under this clause, the tabulation must continue.

   c. The candidate with the fewest votes is defeated. Votes for the defeated candidate must be transferred to each ballot’s next-ranked continuing candidate, except votes for candidates defeated in the final round are not transferred if, by their defeat, the number of continuing candidates is reduced to one (1). Ties between candidates with the fewest votes must be resolved by lot by the chief election official. The candidate chosen by lot must be defeated. The result of the tie resolution must be recorded and reused in the event of a recount.

   d. The procedures in clauses a. to c. must be repeated until one (1) candidate reaches the threshold, or until only one (1) continuing candidate remains. If only one continuing candidate remains, that continuing candidate must be elected. In the case of a tie between two (2) or more continuing candidates, the tie must be resolved by lot by the chief election official. The result of the tie resolution must be recorded and reused in the event of a recount. A tied candidate chosen by lot must be defeated. When only one (1) continuing candidate remains after a tie has been resolved by lot by the chief election official, that continuing candidate must be elected and the votes of the tied candidate chosen by lot will be retained.

2. When a skipped ranking, overvote or repeat candidate ranking is encountered on a ballot, that ballot shall count towards the highest continuing ranking that is not a skipped ranking, an 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 not count towards any candidate in that round or in subsequent rounds for the office being counted.

10-10. Ties resolved by lot.
(a) **Who resolves a tie by lot.** The chief election official must resolve a tie by lot.

(b) **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.

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

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

(e) **Media.** The chief election official may allow the media to view the resolution of a tie by lot.

(f) **Procedures.** The chief election official may establish written procedures for implementing this section.

(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 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 the St. Louis Park Home Rule Charter.

10-12. Recounts.
(a) **Required recounts.** A candidate defeated in the final round of tabulation may request a recount of the votes cast for the nomination or election to that office if the difference between the final round vote total for that candidate and for a winning candidate is less than the percentage threshold as provided by Minnesota Statutes, Section 204C.36.

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. Candidates defeated in the final round of tabulation when the vote difference is greater than the difference required by clause (a) above, 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.

1. 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.

The chief election official shall establish administrative procedures for the tabulation of votes in accordance with rules for counting the votes contained in sections of this chapter.

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 by the county auditor pursuant to Minnesota Statute Section 206.58.

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 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.

10-16. Post-election review of voting system and tabulation of results.
(a) Selection of test date; notice. At canvass, the chief election official must select by lot the offices and precincts to be reviewed and set the date, time and place for the post-election review. Post-election review is not required for a hand count election.
(b) **Scope and conduct of test.** The post-election review must be conducted, in public, of a sample of ballots cast for at least one (1) single-seat ranked-choice voting election for city council.

(c) **Single seat test.** At canvass, the chief election official shall select, by lot, a total of two (2) precincts. Using the actual ballots cast in the two (2) precincts selected, the judges of the election shall conduct a hand count of ballots cast for the one (1) or two (2) offices of council member. Using procedures called for in this chapter and accompanying rules, the judges shall count and record the ballots cast.

(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 hand count must show that the results of the electronic voting system differed by no more than the applicable percentage threshold, as provided by Minnesota Statutes, section 204C.36, from the hand 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 needed.** Additional review(s) may be required as follows:

1. **Additional precinct review.** If a test under clause (c) reveals a difference greater than the applicable percentage threshold, as provided by Minnesota Statutes, Section 204C.36, in at least one (1) precinct of an office, the chief election official must immediately publicly select by lot two (2) additional precincts of the same office for review. The additional precinct review must be completed within two (2) days after the precincts are selected and the results immediately reported to the county auditor.

2. **Additional office review.** If the additional precinct review also indicates a difference in the vote totals that is greater than the applicable percentage threshold, as provided by Minnesota Statutes, section 204C.36, in at least one (1) precinct of an office, the chief election official must conduct a review of the ballots from all the remaining precincts in the office being reviewed. This review must be completed no later than two (2) weeks after the canvass.

(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 make those results 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 hand recount of all ballots cast in the election.
Section 2. This ordinance shall take effect fifteen days after passage and publication according to law.

<table>
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<tr>
<th>First Reading</th>
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<td>December 3, 2018</td>
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<tr>
<td>Date of Publication</td>
<td>December 13, 2018</td>
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<td>Date Ordinance takes effect</td>
<td>December 28, 2018</td>
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Reviewed for administration: Adopted by the City Council December 3, 2018

Thomas K. Harmening, City Manager

Attest: Jake Spano, Mayor

Melissa Kennedy, City Clerk

Approved as to form and execution:

Soren Mattick, City Attorney