

RESOLUTION NO. RS2019-1720

A resolution providing amendments to the Charter of the Metropolitan Government of Nashville and Davidson County, Tennessee, in accordance with Article 19, Section 19.01 thereof, and setting forth a brief description of each amendment to be placed upon the ballot.

WHEREAS, Article 19, Section 19.01 of the Charter of The Metropolitan Government of Nashville and Davidson County, Tennessee provides that the Metropolitan Government shall not adopt a resolution proposing amendments to the Charter more often than twice during the term of office of members of the Metropolitan Council; and

WHEREAS, Article 19, Section 19.01 of the Charter further requires to be set forth in the adoption resolution a brief description of each amendment so worded so as to convey the meaning of said amendment; and

WHEREAS, it is the desire of the Metropolitan Council by adopting this resolution to fulfill these two Charter requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. Pursuant to the provisions of Article 19, Section 19.01 of the Charter of the Metropolitan Government of Nashville and Davidson County, the proposed amendments to the Charter of the Metropolitan Government of Nashville and Davidson County, attached hereto, are submitted to the people for approval in the manner provided by Section 19.01 of the Charter.

Section 2. The date prescribed for holding of the referendum election at which the electorate of the Metropolitan Government will vote to ratify or reject the amendments proposed in Section 1 of this Resolution shall be August 1, 2019.

Section 3. This Resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

AMENDMENT NO. A

I. Section 15.01 of Article 15 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by deleting the language:

“At such general election each voter shall be entitled to vote for one (1) candidate for mayor, one (1) candidate for vice-mayor, five (5) candidates for councilmember-at-large, and one (1) candidate for district councilmember from the district wherein the voter resides”

And substituting the language:

“At such general election each voter shall be entitled to vote for mayor, vice-mayor, councilmember-at-large, district councilmember from the district wherein the voter resides by ranking his or her preferred candidates. In the event that this method of voting becomes repugnant to state law as determined by an appropriate regulatory agency or court of competent jurisdiction, each voter shall vote for one (1) candidate for mayor, one

(1) candidate for vice-mayor, five (5) candidates for councilmember-at-large, and one (1) candidate for district councilmember from the district wherein the voter resides”

II. Section 15.02 of Article 15 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be deleted in its entirety and replaced as follows:

Sec. 15.02 – Vote required for election in metropolitan elections

- A. In the general metropolitan election for mayor, vice-mayor, and district councilmember for each of the thirty-five (35) districts, those qualified persons who receive a majority of the votes cast shall be elected to their respective offices.
 - 1. If no candidate shall receive a majority of all the votes cast for the office of mayor, vice-mayor or district councilman, the winner shall be determined using ranked choice voting as described in section 15.11 hereof.
 - 2. If ranked choice voting becomes repugnant to state law as determined by an appropriate regulatory agency or court of competent jurisdiction, and no candidate shall receive a majority of all the votes cast for the office of mayor, vice-mayor or district councilmember, a runoff election shall be held in the manner prescribed in section 15.12 hereof. In the event that the aforementioned invalidation of ranked choice voting occurs after a general election in which no candidate receives a majority, only the first place rankings of each ballot shall be counted, and the top two vote-getters in the general election shall be considered the participants in a runoff election, if required.

- B. In the general metropolitan election for councilmember-at-large, those qualified persons who surpass the election threshold as defined in section 15.11 hereof shall be elected to office.
 - 1. If fewer than five candidates shall reach this threshold, the winner shall be determined using ranked choice voting as described in section 15.11 hereof.
 - 2. If ranked choice voting becomes repugnant to state law as determined by an appropriate regulatory agency or court of competent jurisdiction, each candidate receiving a majority shall be elected. For the purpose of this section, "the total vote cast for the office of councilmen-at-large" shall be deemed to be one-fifth of the aggregate number of votes received by all candidates for the office of councilmen-at-large. Unfilled positions will be filled through a runoff election, which shall be held in the manner prescribed in section 15.12 hereof. In the event that the aforementioned invalidation of ranked choice voting occurs after a general election in which there would be an unfilled position under the definitions of this subsection, the top vote-getters in the general election as determined by counting only the first place rankings of each ballot, in a quantity twice the unfilled positions, shall be considered the participants in a runoff election, if required.

III. Section 15.03 of Article 15 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by deleting the language:

“F. If in such a special election to fill a vacancy for the unexpired term of the office of mayor, no candidate shall receive a majority of all the votes cast for such office, a runoff election shall be held five (5) weeks subsequent to the first special election to fill a vacancy in accordance with the provisions hereinbefore set forth in the case of a general metropolitan election. In the event that the date prescribed for the runoff election falls on a major holiday or creates other major logistical concerns, the Election Commission shall

be empowered to schedule the election no more than two days prior to the prescribed date.

G. If in such a special election to fill a vacancy for the unexpired term of the office of vice mayor or district council member no candidate shall receive a majority of all the votes cast for such office, a runoff election shall be held in the manner prescribed in Part F of this section."

And substituting the language:

"F. If in such general or special election to fill a vacancy for the unexpired term of the office of mayor, vice-mayor, or district council member, no candidate shall receive a majority of all the votes cast for such office, the winner shall be determined using ranked choice voting as described in section 15.11 hereof. If ranked choice voting becomes repugnant to state law as determined by an appropriate regulatory agency or court of competent jurisdiction, and no candidate shall receive a majority of all the votes cast for the office of mayor, vice-mayor or district councilmember, a runoff election shall be held in the manner prescribed in section 15.12 hereof. In the event that the aforementioned invalidation of ranked choice voting occurs after a general election in which no candidate receives a majority, only the first place rankings of each ballot shall be counted, and the top two vote-getters in the general election shall be considered the participants in a runoff election, if required.

And renumbering succeeding subsections accordingly.

IV. Article 15 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by adding the following new section 15.11:

Section 15.11 – Ranked Choice Voting

"Ranked choice voting" means the method of casting and tabulating votes in which voters rank candidates in order of preference, tabulation proceeds in sequential rounds, and votes or fractions thereof are distributed to candidates according to the preferences marked on each ballot. For offices elected by ranked choice voting, the ballot must be simple and easy to understand and allow a voter to rank candidates for an office in order of preference. A voter may include no more than one (1) write-in candidate among that voter's ranked choices for each office.

A. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

1. "Batch elimination" means the simultaneous defeat of multiple candidates for whom it is mathematically impossible to be elected.
2. "Continuing ballot" means a ballot that is not an exhausted ballot.
3. "Continuing candidate" means a candidate who has not been defeated.
4. "Election threshold" means the number of votes sufficient for a candidate to be elected in a multi winner contest. The election threshold is calculated by dividing the total number of votes counting for continuing candidates in the first round by the sum of one (1) plus the number of offices to be filled, rounding up to four decimal places.

5. "Exhausted ballot" means a ballot that does not rank any continuing candidate, contains an overvote at the highest continuing ranking or contains two (2) or more sequential skipped rankings before its highest continuing ranking.
6. "Highest continuing ranking" means the highest ranking on a voter's ballot for a continuing candidate.
7. "Last-place candidate" means the candidate with the fewest votes in a round of the ranked choice voting tabulation.
8. "Mathematically impossible to be elected," with respect to a candidate in a single-winner contest, means:
 - a. The candidate cannot be elected because the candidate's vote total in a round of the ranked choice voting tabulation plus all votes that could possibly be transferred to the candidate in future rounds from candidates with fewer votes or an equal number of votes would not be enough to surpass the candidate with the next-higher vote total in the round; or
 - b. The candidate has a lower vote total than a candidate described in subparagraph (i) above.
9. "Overvote" means a circumstance in which a voter has ranked more than one candidate at the same ranking.
10. "Ranking" means the number assigned on a ballot by a voter to a candidate to express the voter's preference for that candidate. Ranking number one (1) is the highest ranking, ranking number two (2) is the next-highest ranking and so on.
11. "Round" means an instance of the sequence of voting tabulation steps established in subsection B.
12. "Skipped ranking" means a circumstance in which a voter has left a ranking blank and ranks a candidate at a subsequent ranking.
13. "Surplus" means a positive difference between a candidate's vote total and the election threshold in a multi-winner contest.
14. "Surplus fraction" means the number equal to a candidate's surplus divided by that candidate's vote total, calculated to four decimal places, ignoring any remainder.
15. "Transfer value" means the proportion of a vote that a ballot will contribute to its highest continuing ranking. Each ballot begins with a transfer value of one (1). If a ballot transfers from an elected candidate with a surplus, it receives a new transfer value. The new transfer value of such a ballot is calculated by multiplying the surplus fraction of the elected candidate by the ballot's current transfer value, calculated to four decimal places, ignoring any remainder.

B. Procedures. Except as provided in subsections C and D, the following procedures are used to determine the winner in an election for an office elected by ranked choice voting.

1. Single-winner tabulation. For the offices of mayor, vice-mayor, and district councilmember, tabulation must proceed in rounds. In each round, the number of votes for each continuing candidate must be counted. Each continuing ballot counts as one (1) vote for its highest-ranked continuing candidate for that round. Exhausted ballots are not counted for any continuing candidate. The round then ends with one of the following two (2) potential outcomes.
 - a. If there are two (2) or fewer continuing candidates, the candidate with the most votes is declared the winner of the election.
 - b. If there are more than two (2) continuing candidates, the last-place candidate is defeated and a new round begins.
2. Multi-winner tabulation. For the office of councilmember-at-large, tabulation must proceed in rounds each validly cast ballot shall be initially counted as one vote for its highest-ranked continuing candidate or as an exhausted ballot. The election threshold shall be calculated. Tabulation shall then proceed sequentially as follows:

- a. If the number of continuing candidates whose vote totals exceed the election threshold is equal to the number of seats remaining to be filled, those candidates are elected and the tabulation is complete. If the number of continuing candidates is equal to or less than the number of seats remaining to be filled, then all continuing candidates are elected and the tabulation is complete. Otherwise, the tabulation continues to subsection (2)(b).
 - b. If no candidate has a vote total that exceeds the election threshold, the tabulation continues to subparagraph (2)(c). If at least one continuing candidate has a vote total that exceeds the election threshold, then the continuing candidate with the highest vote total is elected. The number of surplus votes for such candidate shall be calculated. The surplus fraction for such candidate shall be calculated. The new transfer value of each vote cast for such candidate shall be calculated. Votes for such candidate shall be added, at their new transfer values, to the totals of each ballot's highest-ranked continuing candidate or counted as exhausted ballots, and a new round begins with subsection (2)(a). In all subsequent rounds, any candidates elected under this subsection shall have vote totals equal to the election threshold.
 - c. The candidate with the fewest votes is defeated. Then, if the number of continuing candidates is equal to the number of seats remaining to be filled, all continuing candidates are elected, and the tabulation is complete. Otherwise, votes for the defeated candidate shall cease counting for the defeated candidate and shall be added, at their current transfer values, to the totals of each ballot's next-ranked continuing candidate or counted as exhausted ballots, and a new round begins with subsection (2)(a).
- C. Ties. A tie under this section between candidates for the most votes in the final round or a tie between last-place candidates in any round must be decided by tallying and comparing the number of first place rankings, and the candidate with the most first place rankings prevails. If the number of first place rankings is the same for both candidates, then second place rankings would be tallied and compared, and continuing down the rankings until a difference is established. If no difference is established, the Metropolitan Council will break the tie. The result of the tie resolution must be recorded and reused in the event of a recount. Election officials may resolve prospective ties between candidates before the election.
- D . Modification of ranked choice voting ballot and tabulation. Modification of a ranked choice voting ballot and tabulation is permitted in accordance with the following.
- 1. The number of allowable rankings may be limited to no fewer than six (6) unless there are five (5) or fewer candidates on the ballot, in which case the number shall be limited to the number of candidates on the ballot plus one (1).
 - 2. Two (2) or more candidates may be defeated simultaneously by batch elimination in any round of tabulation.

V. Article 15 of the Charter of the Metropolitan Government of Nashville and Davidson County shall be amended by adding the following new section 15.12:

Section 15.12 – Runoff elections

A runoff election, if called for by this section, shall take place five (5) weeks subsequent to the election that triggers it. If the date prescribed for the runoff election falls on a major holiday or creates other major logistical concerns, the Election Commission shall be empowered to schedule the election no more than two (2) days prior to the prescribed date.

- A. In a runoff election for the offices of mayor, vice-mayor, and district councilmember, only the names of the two (2) candidates who received the highest number of votes cast for such office which failed to be filled at the general election shall be placed on the official ballot or voting machine. The candidate receiving the most votes shall be elected.
- B. In a runoff election for the office of councilmember-at-large, there shall be included on the ballot or voting machine a number of candidates which is twice the number of vacancies remaining to be filled. The candidates to be so included shall be those who in the general election received the highest vote less than a majority and the other candidates shall be eliminated. In the event of a tie vote among candidates, one (1) of whom should be in the runoff except for such tie, then all such candidates so having tie votes shall be in the runoff. In a runoff election for councilmen-at-large it shall not be necessary to receive a majority and those candidates who have the highest vote and who equal in number those remaining to be elected shall be elected.

In the case of a tie between candidates for the same office, it shall be broken as provided by Tennessee Code Annotated, Section 2-8-111.

FOR THE BALLOT

Amendment No. ____

Under this amendment, prevailing candidates for mayor, vice mayor, district councilmember, and councilmember-at-large would still require a majority of the vote. However, in those instances where no candidate receives a majority of the vote, this amendment would offer an alternative to holding a separate runoff election. Voters would instead cast votes only one time, doing so by ranking candidates in order of preference. A candidate receiving a majority of votes for that office would win the election. Otherwise, an "instant runoff" would occur by eliminating the last place candidate. Each ballot listing the eliminated candidate as a first choice would then be counted for the ballot's second choice candidate. This would continue until one candidate receives a majority of the votes. If vacancies remain for councilmember-at-large, surplus votes for elected candidates are redistributed to subsequent choices until all vacancies are filled.

INTRODUCED BY:

Dave Rosenberg
Member of Council