

1 **Proposed Substitute**
2 **By: Leah Berman Williams**
3 **Matt Cooper**

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Introduced: 04/08/2021

4
5 FAIRBANKS NORTH STAR BOROUGH

6
7 ORDINANCE NO. 2021 – 17

8
9 AN ORDINANCE **PLACING ON THE BALLOT AT THE NEXT REGULAR ELECTION**
10 **THE ADVISORY QUESTION OF WHETHER THE FAIRBANKS NORTH STAR**
11 **BOROUGH SHOULD PROVIDE FOR RANKED CHOICE VOTING IN MUNICIPAL**
12 **ELECTIONS;** AMENDING FNSBC TITLE 5 TO PROVIDE FOR RANKED CHOICE VOTING
13 IN MUNICIPAL ELECTIONS; AND AMENDING THE FY 2020-21 BUDGET BY
14 APPROPRIATING \$75,000 FROM THE GENERAL FUND FUND BALANCE TO THE
15 MULTI-YEAR GENERAL SUBFUND FOR THE IMPLEMENTATION OF AND VOTER
16 EDUCATION ABOUT RANKED CHOICE VOTING IN MUNICIPAL ELECTIONS
17

18 WHEREAS, The current process for determining the winner of a municipal
19 election in the Fairbanks North Star Borough (Borough), called “first past the post voting”
20 allows for the winning candidate for Assembly, School Board, and Interior Gas Utility
21 Board (IGU) seats to be elected if they receive the greatest number of votes but less than
22 a majority of the votes cast and requires expensive runoff elections for the Mayoral races
23 if a mayoral candidate does not receive over 40 percent of the votes cast for that seat;
24 and

25
26 **[WHEREAS, THE WINNER OF AN ELECTION SHOULD BE**
27 **PREFERRED BY A MAJORITY OF THE VOTERS CASTING BALLOTS; AND]**

28
29 WHEREAS, The Borough has had 107 separate races (combining mayoral,
30 Assembly, School Board, and IGU races) in the 16 elections since 2005, of which 27 (or
31 25.2%, just over one race in four) were won by candidates who did not receive a majority
32 of the votes cast; specifically:

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
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- 33
- Of the 51 races for Assembly seats since 2005, 16 races, or 31%, have
34 been won by candidates who received less than 50% of the votes cast
35 (comprising 84% of the 19 races which had three or more candidates);
36 and
 - Of the 40 races for School Board since 2005, nine elections (23%) have
37 been won by candidates who received less than 50% of the votes cast
38 (comprising 89% of the nine races which had three or more candidates);
39 and
 - Of the ten races for IGU since 2014, all 3 elections (38%) with more
40 than three candidates were won by a candidate who received less than
41 50% of the votes cast; and
 - Of the six mayoral races held since 2005, where if a candidate does not
42 receive 40% of the votes cast a runoff is required, five had more than
43 two candidates running, and one required a runoff election, at a cost to
44 the Borough of approximately \$75,000 per runoff, and one narrowly
45 missed the cutoff for a runoff; and
- 46
47
48
49

50 WHEREAS, Ranked Choice Voting, also known as Instant Runoff Voting, is
51 a voting process that ensures that the winner of a race is preferred by a majority of the
52 voters casting ballots, by use of the following process:

- 53
- Voters are given a ballot listing all candidates for a given race;
 - 54 • Each voter ranks each of the candidates in order of their preference;
 - 55 • In the first round of vote tabulation, if a candidate receives a majority
56 of the votes, then that candidate is declared the winner of that race;
 - 57 • However, if in the first round of tabulation, no candidate receives a
58 majority of the votes, then the votes for the candidate who received the
59 least number of first-choice votes are redistributed to those voters'
60 second choice candidates, and totals are retabulated;

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61 • This process continues until one candidate receives a majority of the
62 votes cast; and

63
64 **[WHEREAS, MUNICIPALITIES IN FIVE OTHER STATES ARE**
65 **ALREADY USING RANKED CHOICE VOTING FOR THEIR MUNICIPAL**
66 **ELECTIONS, AND THE STATE OF MAINE HAS ADOPTED RANKED CHOICE**
67 **VOTING FOR STATEWIDE ELECTIONS, SO THAT RANKED CHOICE VOTING HAS**
68 **BEEN USED SUCCESSFULLY IN ELECTIONS SIMILAR TO THOSE IN THE**
69 **BOROUGH; AND**

70
71 **WHEREAS IN COMMUNITIES THAT HAVE ADOPTED RANKED**
72 **CHOICE VOTING, ANALYSES HAVE SHOWN THAT VOTING ERRORS ARE LOW**
73 **AND VOTERS FIND THE VOTING PROCESS STRAIGHTFORWARD; AND]**

74
75 WHEREAS, In 2020, the voters in the State of Alaska approved the use of
76 Ranked Choice Voting for statewide elections; and

77
78 WHEREAS, With Ranked Choice Voting, runoff elections for mayoral races
79 will no longer be needed, and the Borough’s Division of Elections allocates \$80,000 every
80 three years to pay for mayoral run-off elections; and

81
82 WHEREAS, The total cost for implementing Ranked Choice Voting per year
83 on a recurring basis is estimated to be slightly less than \$20,000 per year, so the recurring
84 total over three years is less than the amount to hold a single runoff election; and

85
86 WHEREAS, The State of Alaska and the Borough have purchased voting
87 machines that have the technical capability to implement Ranked Choice Voting; and

88

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89 WHEREAS, Since Ranked Choice Voting will be a new way of voting in the
90 Borough, it is important to educate voters,; this ordinance proposes to allocate money on
91 a one-time basis for this purpose, specifically to include a postcard campaign and booths
92 at the Midnight Sun Festival and Tanana Valley State Fair; and

93
94 WHEREAS, In addition, there are one-time costs required for the initial set-
95 up and training of elections staff; and

96
97 **WHEREAS, Structural changes to the voting process for Fairbanks**
98 **North Star Borough municipal elections should be decided by an advisory vote.**

99
100 NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks
101 North Star Borough:

102
103 Section 1. Sections 2 through 11 of this ordinance are of a general and
104 permanent nature and shall be codified. All other sections of this ordinance are not of a
105 general and permanent nature and shall not be codified.

106
107 Section 2. FNSBC 5.04.010, Definitions, is hereby amended to add the
108 following definitions [the Clerk shall add the definition in alphabetical order]:

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

110 "Duplicate candidate" means a single candidate has been selected for more than one
111 ranking.

112 "Exhausted ballot" means a ballot that cannot be advanced because no further candidate
113 is ranked on the ballot.

114 "Ranked choice voting" means an election method in which voters rank candidates for an
115 office in order of their preference and the ballots are counted in rounds that simulate a
116 series of runoffs until one candidate receives a majority of votes.

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117 “Ranking” means the number assigned by a voter to a candidate to express the voter’s
118 preference for that candidate, with a lower numerical value indicating a greater
119 preference for a candidate than a higher numerical value.

120 “Skipped ranking” means a voter leaves a ranking blank and ranks a candidate at a
121 subsequent ranking.

122

123 Section 3. FNSBC 5.04.050, Election times, is hereby amended as follows:

124 A. Time of Regular Election. Annually, on the first Tuesday of October, a regular
125 election shall be held in the borough for the election of vacant borough offices, and for
126 the determination of other matters as may be placed on the ballot.

127 B. [TIME OF RUN-OFF ELECTION. WHEN A RUN-OFF ELECTION IS REQUIRED BY
128 LAW, THE ELECTION SHALL BE HELD ON THE THIRD TUESDAY FOLLOWING THE
129 REGULAR ELECTION OR WITHIN TWO WEEKS AFTER CERTIFICATION OF THE RESULTS
130 OF THE REGULAR ELECTION. THE RUN-OFF ELECTION SHALL NOT BE CONSIDERED A
131 SPECIAL ELECTION WITHIN THE MEANING OF AS 29.71.

132 C.] Time of Service Area Elections.

133 1. Annually, on the third Tuesday of November, an election shall be held for
134 establishing new service areas, annexation to existing service areas, dissolving a service
135 area, or to consolidate or merge two or more service areas.

136 2. Annually, on the fourth Tuesday of March, an election shall be held for any
137 service area desiring to increase their mill levy for services provided within the boundaries
138 of the service area.

139 [D.]C. Time of Special Elections. The assembly, by motion, resolution, or adoption of an
140 ordinance, may call a special election at any time at least 75 days prior to the date of the
141 election. Unless the assembly has set a date for a required special election, the borough
142 clerk shall call a special election when required by law or ordinance to place an initiative,
143 referendum, recall or other question before the voters.

144

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145 Section 4. FNSBC 5.04.060, Notice of elections, is hereby amended as
146 follows:

147 A. The borough clerk shall publish a notice of each election at least twice in one or
148 more newspapers of general circulation in the borough. The borough clerk shall also post
149 such a notice in two conspicuous places in each precinct. The first such publication, and
150 the posting in each precinct, shall be accomplished at least 30 days prior to a regular
151 election or at least 20 days before a special election.

152 B. Each notice of election shall include:

- 153 1. The type of election, whether regular[,] or special [OR RUN-OFF];
- 154 2. The date of the election;
- 155 3. The hours the polls will be open;
- 156 4. The offices to which candidates are to be elected;
- 157 5. The subjects of propositions to be voted upon;
- 158 6. Voter qualifications and instructions for registration;
- 159 7. Instructions for application for absentee voting;
- 160 8. Early voting instructions, including station location and hours;
- 161 9. Precinct polling places.

162 C. Service Area Elections.

163 1. The borough clerk shall publish a notice of each service area election at
164 least twice in one or more newspapers of general circulation in the borough, and on the
165 borough website.

166 2. Each notice of election shall include:

- 167 a. The type of election;
- 168 b. The date of the election;
- 169 c. The polling place location and hours the poll(s) will be open;
- 170 d. The subjects of propositions to be voted upon;
- 171 e. Voter qualifications as set forth in FNSBC 5.08.010 and instructions
172 for registration; and

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173 f. The notice of election shall state a service area resident may vote in
174 person at the borough clerk's office or request a ballot by mail or electronic transmission.

175 D. [FOR RUN-OFF ELECTIONS, THE NOTICE OF THE LOCATIONS OF THE PRECINCT
176 POLLING PLACES MAY BE INCLUDED OR SEPARATE FROM THE NOTICE OF THE
177 ELECTION AND PUBLICATION SHALL BE MADE AT LEAST ONCE, NO LATER THAN FIVE
178 DAYS PRIOR TO THE RUN-OFF ELECTION. THE NOTICE OF ELECTION SHALL BE POSTED
179 AT TWO PLACES WITHIN EACH PRECINCT.

180 E.] Notice of Bonded Indebtedness.

181 1. Before a general obligation bond issue election, the borough clerk shall
182 publish notice of the borough's total existing bonded indebtedness at least once a week
183 for three weeks.

184 2. The notice of the borough's total existing bonded indebtedness shall state:

185 a. The current total general obligation bonded indebtedness, including
186 authorized but unsold bonds, of the borough;

187 b. The cost of the debt service on the current indebtedness; and

188 c. The total assessed valuation within the borough.

189
190 Section 5. FNSBC 5.04.070, Votes required for election to office, is hereby
191 amended as follows:

192 A. [ELECTION TO THE OFFICE OF BOROUGH MAYOR IS WHEN A CANDIDATE
193 RECEIVES THE GREATEST NUMBER OF VOTES AND OVER 40 PERCENT OF THE VOTES
194 CAST FOR THAT SEAT. A RUN-OFF ELECTION FOR THE OFFICE OF MAYOR SHALL BE
195 HELD BETWEEN THE TWO CANDIDATES RECEIVING THE HIGHEST NUMBER OF VOTES
196 IF NO CANDIDATE RECEIVES OVER 40 PERCENT OF THE VOTES CAST.

197 B.] The candidate for [AN] Borough Mayor, Assembly, Interior Alaska Natural Gas
198 Utility Board (IGU) at large or School Board seat receiving the [GREATEST NUMBER]
199 majority of votes cast for that seat is elected unless provided otherwise in this section.

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200 B. When there are two qualified candidates on the ballot running for the same seat
201 and it is mathematically impossible for a candidate to receive the majority of the votes
202 cast due to declared or undeclared write-in votes, the candidate receiving the greatest
203 number of votes cast for that seat shall be elected.

204 C. If more than two qualified candidates are running for the same seat, the majority
205 of votes cast for that seat shall be determined using ranked choice voting.

206

207 Section 6. FNSBC 5.16.010, Ballot form, is hereby by amended as follows:

208 A. The ballot shall be designed with the position of names of the candidates set out
209 in the same order in each section on each ballot used in that election. The order for
210 placement of candidate names for each [OFFICE]seat shall be randomly determined by
211 the borough clerk.

212 B. The title of the office and seat to be filled shall be followed by the printed names
213 of the candidates for such office and seat, below which shall be blank lines equal in
214 number to the candidates to be elected to such [OFFICE]seat, upon which the voter may
215 write the names of persons not listed on the ballot. [THE WORDS "VOTE FOR NO MORE
216 THAN _____," WITH THE APPROPRIATE NUMBER REPLACING THE BLANK, SHALL
217 BE PLACED BEFORE THE LIST OF CANDIDATES FOR EACH OFFICE.] Names of candidates
218 shall be printed as they appear upon the declaration filed with the borough clerk, except
219 that any honorary or assumed title or prefix shall be omitted. A candidate's name
220 appearing on the ballot may include a nickname or familiar form of a proper name. The
221 names of candidates shall be set out in order as provided in subsection (A) of this section.

222 C. When there are two or less qualified candidates, the words "Vote for no more than
223 one candidate," shall be placed before the list of candidates for each such seat.

224 D. When there are more than two qualified candidates, the ballot shall allow for
225 ranked choice voting. The ballot shall include instructions to voters that clearly indicate
226 how to rank candidates in order of the voter's preference.

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227 E. Mixed-election method ballots. If elections are held in which ranked choice voting
228 is used in addition to other methods of voting, the ranked choice voting and non-ranked
229 choice voting elections shall be on the same ballot if possible, with ranked choice voting
230 and non-ranked choice voting portions clearly separated on the ballot. If placement of all
231 offices to be elected cannot be placed on a single ballot, a separate ballot may be used
232 for those seats to be elected using ranked choice voting. The borough may deviate from
233 the standard ballot order of offices to allow separation of ranked choice voting and non-
234 ranked choice voting elections.

235 F. The propositions to be voted on shall follow the candidates for office or shall be
236 on separate ballots, as the borough clerk may determine. The words "yes" and "no" shall
237 appear below each proposition.

238 [D.]G. Each ballot shall bear the words "Official Ballot" and the date of the election.

239 [E.]H. A ballot shall be printed on paper as provided in this title.

240 [F.]I. The ballots shall be consecutively numbered.

241
242 Section 7. FNSBC 5.16.020, Preparation and distribution, is hereby amended
243 as follows:

244 A. The borough clerk may contract for the preparation and printing of the ballots,
245 preparation, printing and distribution of ballots without obtaining competitive bids.

246 B. The borough clerk shall obtain the printing of all ballots for borough elections. The
247 borough clerk shall possess the printed ballots at least 15 days before each regular
248 election and at least 10 days before each special [AND RUN-OFF] election. After receipt
249 of ballot proofs, the clerk shall notify candidates and make the proof available for
250 inspection by any candidate whose name is on the ballot, or by their authorized agent,
251 and any discovered mistake shall be corrected immediately.

252 C. The borough clerk shall arrange for delivery of ballots to the early voting station
253 prior to or on the date early voting begins and to each election board prior to or on the
254 date of the election before the opening of the polls. The ballots shall be delivered in

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255 separate containers, with the number of ballots enclosed in each container clearly marked
256 on the outside of it. A receipt for each package shall be taken from the election board to
257 which it is delivered.

258
259 Section 8. FNSBC 5.24.010, Commencement of ballot count, is hereby
260 amended as follows:

261 A. Day of the election. In optical scan or other computer-read or electronic ballot
262 precincts, when the polls have closed and the last vote has been cast, the election board
263 shall immediately transmit election results to the borough clerk following the written
264 instructions provided to each precinct. Once the elections results have been transmitted,
265 the election board shall open the ballot box and place all ballots in the tamper-proof
266 containers provided. The election board shall remove all questioned ballots and place
267 them in the container provided. The election board shall proceed with the ballot
268 accountability and poll-closing procedures provided by the borough clerk.

269 B. Tuesday following the election. All questioned and absentee ballots determined to
270 be valid by the canvass board shall be counted and tabulation of ranked choice voting
271 racess shall commence.

272 C. Tabulation of ranked choice voting races.

273 1. If a candidate receives a majority of the first-choice votes cast, that
274 candidate shall be declared elected. If no candidate receives a majority, the candidate
275 who received the fewest first-choice votes shall be eliminated and each vote cast for that
276 candidate shall be transferred to the next ranked candidate on the voter's ballot. If after
277 this transfer of votes a candidate has a majority of the votes from the continuing ballots,
278 that candidate shall be declared elected.

279 2. If no candidate receives a majority of votes from the continuing ballots after
280 a candidate has been eliminated and their votes have been transferred to the next-ranked
281 candidate, the continuing candidate with the fewest votes from the continuing ballots
282 shall be eliminated. All votes cast for that candidate shall be transferred to the next-

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283 ranked continuing candidate on each voter's ballot. This process of eliminating candidates
284 and transferring their votes to the next-ranked continuing candidates shall be repeated
285 until a candidate receives a majority of the votes from the continuing ballots.

286 3. If the total number of votes of the two or more candidates credited with
287 the lowest number of votes is less than the number of votes credited to the candidate
288 with the next highest number of votes, those candidates with the lowest number of votes
289 shall be eliminated simultaneously and their votes transferred to the next-ranked
290 continuing candidate on each ballot in a single counting operation.

291 4. If two or more candidates tie for the least number of votes the candidate
292 to eliminate shall be chosen by lot.

293 5. A ballot with a skipped ranking shall immediately be advanced to the next
294 ranking for that race.

295 6. A ballot that has been undervoted, overvoted, contains a duplicate
296 candidate or is an exhausted ballot shall not count towards any candidate in that round
297 or in subsequent rounds for that race.

298
299 Section 9. FNSBC 5.24.070, Reporting results, is hereby added as follows:

300 5.24.070 Reporting results

301 A. Precinct summary statement. A printed precinct summary statement shall be made
302 available and minimally include the number of votes cast for each candidate, the number
303 of votes cast in the first ranking for each candidate, if applicable, and number of votes
304 cast for or against each proposition or question.

305 B. Ranked choice voting summary statement, if applicable. A printed ranked choice
306 voting summary statement shall be made available and minimally include total votes cast,
307 total first choice ranking for all candidates and round-by-round tabulation results.

308
309 Section 10. FNSBC 5.32.050, Certification of the election results, is hereby
310 amended as follows:

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311 A. The assembly shall meet in public session to receive the report of the canvass
312 board, as soon as is practicable. If, after considering the report, the assembly determines
313 that the election was validly held, the election shall be certified and entered upon the
314 minutes of the meeting, together with the precinct summary statement, ranked choice
315 voting summary statement and the total number of votes cast [FOR EACH CANDIDATE
316 AND] for or against each proposition or question.

317 B. Upon certification of a valid election, the borough clerk shall deliver to each person
318 elected to office a certificate of election, signed by the borough clerk and authenticated
319 by the seal of the borough clerk.

320
321 Section 11. FNSBC 5.36.010, Recount application, is hereby amended as
322 follows:

323 A. A defeated candidate, or 10 qualified voters who believe there has been a mistake
324 made by an election official or by the canvass board in counting the votes in an election,
325 may file an application with the borough clerk requesting a recount. The application shall
326 be filed with the borough clerk no later than 5:00 p.m. on the Monday following the
327 election or one business day after completion of the canvass, whichever is later.

328 B. The date on which the borough clerk receives an application, rather than the date
329 of mailing or transmission, determines whether the application is filed within the time
330 allowed under this subsection.

331 C. The application shall include a deposit in cash or certified check for \$200.00 per
332 election precinct to be recounted. The deposit shall be applied against any costs incurred.
333 The applicant(s) shall pay all costs and expenses incurred in recount of an election if the
334 recount fails to reverse a result of the election or the difference between the winning and
335 losing vote on the result contested is more than two percent.

336 D. If two or more candidates having the highest number of votes for the same
337 [OFFICE]seat, to which only one candidate is to be elected, are separated by 10 votes or
338 less the borough clerk shall initiate a recount of that race. In a race using ranked choice

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339 voting, a recount shall only be initiated based on the tabulation of the final round. The
340 clerk shall cease a recount under this subsection if a defeated candidate concedes the
341 election in writing no later than the close of business two *days* after completion of the
342 canvass.

343
344 Section 12. General Fund Appropriation. The FY 2020-21 budget is hereby
345 amended by appropriating \$75,000 to the General Fund budgetary guideline entitled
346 "Contribution to Multi-Year General Subfund" and by increasing Contribution from Fund
347 Balance by a like amount.

348
349 Section 13. Multi-Year General Subfund Appropriation. The FY 2020-21
350 budget is hereby amended by appropriating \$75,000 to the Multi-Year General Subfund
351 budgetary guideline entitled "Ranked Choice Voting Implementation and Voter Education"
352 and by increasing Contribution from General Fund by a like amount.

353
354 Section 14. Lapse of Funds. **Expenditure is contingent upon**
355 **certification of the October 5, 2021 election if a majority of voters vote yes to**
356 **support its passage. If the advisory question fails, the funding will lapse to the**
357 **General Fund fund balance**. Upon completion or abandonment of the project, any
358 unexpended, unencumbered balance will lapse to the General Fund fund balance.

359
360 Section 15. **Election. At the election to be held in the Borough on**
361 **October 5, 2021, the Borough will submit to its qualified voters the advisory**
362 **question as to whether Sections 2 through 11 of this ordinance shall be**
363 **approved. The question to be submitted will be in substantially the following**
364 **form:**

365

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366 **An Advisory Question of Whether the Fairbanks North Star Borough Should**
367 **Conduct Its Elections For Mayor, Assembly, Interior Gas Utility and School**
368 **Board Offices Using Ranked Choice Voting**

369
370 **Shall Sections 2 through 11 of Ordinance No. 2021-17, providing**
371 **for ranked choice voting in Borough elections, become law?**

372 **YES** **NO**

373 **A "YES" vote supports ranked choice voting.**

374 **A "NO" vote rejects ranked choice voting.**

375

376 **Section 16.** Effective Date. **Sections 12 through 15 of [T]this**
377 ordinance **[IS]are** effective at 5:00 p.m. on the first Borough business day following its
378 adoption. **Sections 2 through 11 of this ordinance will become effective upon**
379 **certification of the October 5, 2021 election if a majority of voters vote yes to**
380 **support its passage.**

381

382 ADOPTED THE _____ DAY OF _____ 2021.

383

384

385

Mindy O'Neall
Presiding Officer

386

387

388 ATTEST:

APPROVED:

389

390

391 April Trickey, CMC
392 Borough Clerk

Approved by JSD

Jill S. Dolan
Borough Attorney

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