MEMORANDUM

TO: Mayor and City Council

FROM: Kathryn Koch, City Clerk

DATE: March 2, 2009

RE: .   Ordinance #3, Series of 2009, Instant Runoff Voting

REQUEST OF COUNCIL: Staff requests Council adopt Ordinances #3, Series of 2009, adopting Instant Runoff Voting Procedures on second reading.

PREVIOUS COUNCIL ACTION: Council adopted Ordinance #3, Series of 2009, on first reading at the February 9th, 2009, Council meeting after Council discussion and comments from the public. Council's direction was to come back with procedures for tabulating the one-vote sequential and the two-vote batch elimination.

On February 18th, staff held a demonstration of the two methods using ballots, putting these ballots in piles according to the voter's 1st choice, eliminating the lowest vote getter, moving those ballots to the 2nd choice, etc., to get to 50% plus 1 for Council candidates. Staff had large tally sheets showing how the one-vote sequential tallied through electing two Council seats. Staff also had a large tally sheet showing how the two-vote batch elimination tallied, without actually moving the paper ballots. In each of these tallies, it was pointed out how the 1st ranked vote numbers remained the same in round two of one-vote sequential and in the first round of two-vote batch elimination. There were questions and comments from the public about these methods, one of which pointed out batch elimination could eliminate a candidate who may have eventually won one of the two seats.

Staff rewrote the instant runoff voting procedures to include both methods of tabulating Council races.

At the February 23 Council meeting, Council continued adoption of Ordinance #3 to March 9th for the task force to meet again and for more public input. The task force met Friday, February 27th. Task force members present Jack Johnson, John Worcester, Jim True, Pam Schilling, Blanca O'Leary, Su Lum, Barry Crook, Pamela Cunningham and Kathryn Koch. John Worcester and Jim True stated they would participate in the discussion but not vote on the outcome; Jack Johnson stated the same.

After two hours of discussion among the task force and public input, a vote was taken breaking the votes into:

METHOD	COMMITTEE VOTE	PUBLIC VOTE
One vote	Lum, Schilling	3
Two vote	O'Leary, Crook, Cunningham, Koch	3

METHOD	COMMITTEE VOTE	PUBLIC VOTE
Batch Elimination	0	0
Sequential Elimination	All	All

Since a two vote, sequential elimination method was not an initial alternative, additional comments were taken on the evaluation of this method. Given public and staff comments regarding issues that could occur with this method, staff presented another alternative, on that was a modification of an alternative submitted by Fair Vote. :

This method is described as follows:

All voters rank their candidates as with all of the methods. An initial threshold, as defined by the manual, is determined by the Clerk. All first and second rankings are counted. The two candidates with the most total votes who have reached the threshold are elected.

If one candidate reaches the threshold that candidate is elected and the next two highest vote getters enter the instant runoff. The ballots are recounted with the highest ranking for the candidate still remaining counted as one vote for that candidate. If no candidate receives the threshold in the initial tabulation, then the four highest vote getters enter the instant runoff. In this instant runoff, the highest ranking for a candidate who still continues is counted as a vote for that candidate. The candidate who receives the fewest votes shall be eliminated. The votes for the eliminated candidate are reassigned so that the highest ranking for a candidate continuing is counted as one vote for that candidate. This counting method continues until there are two candidates. All votes are counted giving the highest ranking for one of the two candidates remaining as a vote for that candidate. The candidate with the most votes is elected to one council seat.

The tabulation continues for the election of the second city council seat. In this round, the three candidates who initially made the instant runoff but who were not elected in the first round of the instant runoff shall continue into this round. In this round, each ballot is recounted, the highest ranking for a candidate who is continuing shall be counted as a vote for that candidate. The candidate with the fewest votes shall be eliminated. All votes are recounted, with the highest ranking for a candidate who is continuing counted

as a vote for that candidate. Since there are two candidates remaining, the candidate who receives the most votes cast in this final round shall be deemed the winner of the second council seat.

This method assures that everyone has two votes counted. If that count does not elect a winner or winners, then this method assures that in subsequent counting one's low ranking would not count against his or her higher ranked candidate. This method was accepted by the Committee as its final preference by a vote of 4 to 2.

The procedure manual is also being amended to adopt recount procedures to allow for a hand counted recount if warranted. State statute mandates a recount at ½ of 1% of the difference between the top two vote getters. Staff is recommending a requirement that this recount occur if there is 3% difference.

RECOMMENDATION: Staff recommends that the Council adopt Ordinance #3, Series of 2009, on second reading adopting for the rest of time as the "True Method".

ORDINANCE NO. 3
Series of 2009

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, AMENDING TITLE 2 OF THE ASPEN MUNICIPAL CODE BY THE ADOPTION OF A NEW CHAPTER 2.26, INSTANT RUNOFF VOTING PROCEDURES.

WHEREAS, Article XX, Section 6(d) of the Colorado State Constitution grants to Home Rule municipalities the power to legislate in "all matters pertaining to municipal elections;" and

WHEREAS, on September 4, 2007, the City Council adopted Ordinance No. 38, Series of 2007, to amend Sections 2.7 and 3.2 of the Aspen City Home Rule Charter to require the City Council to adopt and implement instant run-off voting procedures for the election of Mayor and members of Council, and to require members of Council to be elected by majority vote; and

WHEREAS, on November 6, 2007, the electorate of the City of Aspen did approve Ordinance No. 38, Series of 2007; and

WHEREAS, the City Clerk has met with a number of citizens of the City of Aspen for the purpose of formulating instant run-off voting procedures and said committee of citizens has recommended the adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, THAT:

Section 1.

Title 2 of the Aspen Municipal Code is hereby amended by the addition of a new Chapter 2.26, Instant Runoff Voting Procedures, which Chapter shall read as follows:

Chapter 2.26

INSTANT RUNOFF VOTING PROCEDURES

Sec. 2.26.010   Applicability.

This Chapter shall apply to all elections conducted using instant runoff voting to elect the Mayor and Councilmembers. All other provisions of the Colorado Municipal Election Code, Sections 31-10-101, *et seq.,* C.R.S., and Section 1-7-1003, C.R.S., shall apply to the extent they are not inconsistent with this Chapter.

Sec. 2.26.020   Definitions.

(a)   *Instant runoff voting* – means ranked voting for single and multiple winner contests. Instant runoff voting simulates a series of runoff elections in a single election. In each round of "instant runoff," the last place candidates with no chance of winning are eliminated. Voters for those candidates have their ballots count towards their next choice in the following round.

(b)   *City Clerk* – means the City Clerk of the City of Aspen or his or her designee.

Sec. 2.26.030   Adoption of a Procedure Manual.

A "City of Aspen - Instant Runoff Voting Procedures Manual," appended as Exhibit A to this ordinance, is hereby adopted to implement procedures for instant runoff and choice voting elections consistent with the requirements of this Chapter. The Procedural Manual shall incorporate, to the extent not incompatible with this Chapter, the rules set forth in the latest version of the "Election Rules of the Colorado Secretary of State." Three (3) copies of the Procedure Manual, all certified to be true copies by the Mayor, and three (3) copies of the "Election Rules of the Colorado Secretary of State" shall be on file with the City Clerk and shall be open for public inspection in his or her office at City Hall, any weekday between the hours of 9:00 a.m. and 5:00 p.m.

Sec. 2.26.040   Amendments to the Procedure Manual.

The Procedures Manual may be amended from time to time by the City Clerk upon the passage of a resolution by the City Council evidencing its approval and the conduct of a public hearing.

Sec. 2.26.050   Voting Tabulation Center.

The City Clerk shall designate one location within the City of Aspen to serve as the Voting Tabulation Center prior to each election.   The center shall be reasonably accessible to the public for the purpose of observing the vote tabulation. At a minimum, the City Clerk shall arrange the counting of ballots so that the candidates and their representatives may observe the ballots as they are counted. The City Clerk shall ensure that public observation does not interfere with the counting of the ballots. Tabulation of votes shall be conducted as described in this Chapter and the Procedure Manual referenced in Section 2.26.030.

Sec. 2.26.060   Tabulation of Votes.

The City Clerk shall conduct the tabulation of votes as required by this Chapter as soon as possible after the close of the polls. The City Clerk may adjourn the tabulation of votes at any time he or she believes in his or her sole discretion a need to recess the tabulation of votes, including a recess over night. No single recess period called by the City Clerk shall extend beyond 12 continuous hours. At any time the tabulation of votes is

discontinued for a recess period, all ballots shall be safely secured in a combination safe. The Procedures Manual referenced at Section 2.26.030 shall include provisions to ensure the safekeeping of ballots during all recess periods.

Sec. 2.26.070   Reporting Results.

A.   The City Clerk shall issue the following reports:
   (i)   A summary report listing the total number of votes for each candidate in each round;
   (ii)   A ballot image report listing for each ballot the order in which the elector ranked the candidates, the precinct of the ballot, and whether the ballot is a mail-in ballot or early voting ballot; and
   (iii)   A comprehensive report listing the results in the summary report by precinct.

B.   The City Clerk may be required to establish additional requirements for the reports issued pursuant to this Section as set forth in the Procedure Manual referenced in Section 2.26.030.

C.   Preliminary versions of the summary report and ballot image report shall be made available to the public as soon as possible after the commencement of the official tabulation of votes.

Sec. 2.26.080   Voter Education.

The City Clerk shall conduct an education and outreach campaign prior to each election to familiarize electors with ranked choice voting.

Section 2:

This ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

Section 3:

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

A public hearing on the ordinance shall be held on the 23rd day of February, 2009 in the City Council Chambers, Aspen City Hall, Aspen, Colorado.

INTRODUCED, READ AND ORDERED PUBLISHED as provided by law, by the City Council of the City of Aspen on the 9th day of February 2009.

_____
Michael C. Ireland, Mayor

Attest:

_____
Kathryn S. Koch, City Clerk

FINALLY ADOPTED and ordered published this _____ day of _____ 2009.

_____
Michael C. Ireland, Mayor

Attest:

_____
Kathryn S. Koch, City Clerk
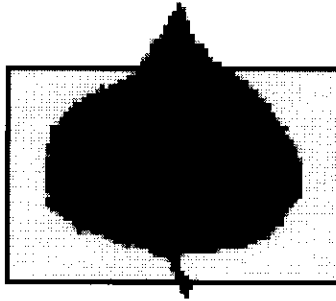
City of Aspen

Instant Runoff Voting Procedures Manual

City Clerk's Office
City of Aspen
130 S. Galena St.
Aspen, Colorado 81611

March 2009

MAYOR'S CERTIFICATION

I, the undersigned, as Mayor of the City of Aspen, pursuant to Section 2.26.030, of the Aspen Municipal Code, do hereby certify that this "Instant Runoff Procedures Manual" (version: March 2009) is a true and correct copy of the latest version of said Manual reviewed and approved by the City Council by Ordinance No. 3, Series of 2009.

Dated this _____ day of _____, _____

By: _____
              Mayor, City of Aspen

Attest : _____
              City Clerk of the City of Aspen

1 Introduction

1.1 Background

On September 4, 2007, the City Council adopted Ordinance No. 38, Series of 2007, amending Sections 2.7 and 3.2 of the Aspen City Home Rule Charter to require the City Council to adopt and implement instant runoff voting procedures for the election of Mayor and Councilmembers, and to require Councilmembers to be elected by majority vote. On November 6, 2007, the electorate of the City of Aspen did approve Ordinance No. 38, Series of 2007. On March 9, 2009, the City Council did adopt Ordinance No. 3, Series of 2009, for the adoption of a new Chapter 2.26 of the Aspen Municipal Code establishing procedures for the conduct of instant runoff voting elections. That ordinance requires that the City Clerk adopt a Procedural Manual to guide the conduct of instant runoff voting elections. The City Clerk has met with a number of citizens of the City of Aspen for the purpose of formulating instant runoff voting procedures and said committee of citizens has assisted in the development of this manual of procedural guidelines for conducting elections using instant runoff voting methods for the election of Mayor and Councilmembers for the City of Aspen.

1.2 Instant Runoff Voting

Instant runoff voting (IRV) is used for both single and multiple seat contests. In Aspen, IRV is used to select the office of Mayor and Councilmembers. IRV is a majoritarian voting method because, in the end, over 50% of participating voters elect the winner. IRV simulates a series of runoff elections in a single election.

1.3 Voter Intent

The City of Aspen hereby adopts and incorporates herein the "Voter Intent – A Guide to the Determination of Voter Intent for Colorado Elections" (2008), adopted by the Colorado Secretary of State (hereinafter "State Voter Intent Guide"), attached hereto as Attachment 3.

2 Definitions

In addition to the definitions set forth in the State Voter Intent Guide, Attachment 3, the following definitions shall apply to this document:

> *Blank ballot* – means a ballot that cast no vote for a candidate.

> *City Clerk* – means the City Clerk of the City of Aspen or his or her designee.

> *Continuing candidate* - means a candidate who has not been eliminated.

Damaged ballot – means a ballot that has been torn, bent, or otherwise mutilated or rendered unreadable, so that it cannot be processed by an optical scanner ballot reader.

Duplicated ballot – means a true copy of a ballot that is made in order to be properly processed and counted due to damage, improper marking or some other reason which would prevent a ballot tabulating machine from accurately reading the ballot (if such a machine is used.)

Defective ranking – occurs when more than one candidate is given the same ranking. (See "Defective Ranking", Attachment 1.)

Duplicate ranking – describes the process by which a voter ranks the same candidate at multiple rankings. (See "Duplicate Ranking", Attachment 1.)

Exhausted ballot – means a ballot that contains a duplicate ranking or a defective ranking, at the point of the duplication or defect and thereafter. Exhausted ballot shall also include a ballot that contains no ranking for a continuing candidate. (See, also, "Undervote", Attachment 1.)

Final Round of Tabulation – means the Round that results in the election of the Mayor or a Council Member.

Majority – as used in the mayoral election, means the next whole number greater than fifty percent (50%) of the votes cast.

Overvote – describes a race or ballot which contains votes for more than the maximum number of candidates or responses for a ballot measure allowed. (See "Overvote", Attachment 1.)

Ranking – means the specific preference expressed by the voter for a particular candidate. Rankings are set forth in columns from first choice to last choice.

Tabulation center – means the place selected where a central count electronic voting system is used for the automatic or hand processing and tabulation of ballots.

Ranked-choice voting – means a method of casting and tabulating votes that allows electors to rank candidates for an office in order of preference and uses these preferences to determine the winner of the election.

Round - means a stage of the tabulation of a ranked voting contest in which votes may be counted, and candidates elected or eliminated.

Skipped ranking – describes the process by which a voter leaves a ranking blank and ranks a candidate at a subsequent ranking. (See "Skipped Ranking", Attachment 1.)

Threshold – means the minimum number of votes that a candidate must receive in order to be elected to the City Council. The threshold is calculated by counting the number of ballots in which a vote is cast for a continuing candidate for City Council, then dividing that total by two. If that number is a whole number, then one is added to determine the threshold. If that number is a fraction, the threshold is the next whole number.

Undervote – means the occurrence when the voter does not vote for a candidate in a race, or for or against a ballot measure, or, when more than one person in a race is available, the voter does not vote the maximum number of votes allowed.

Vote Cast – means a ranking of a candidate that is counted as a vote for that candidate.

Write-in Vote - means a vote on a ballot on which the voter physically writes in the name of a legally qualified write-in candidate in the space reserved on the ballot for write-in votes and properly marks the oval or connects the arrow on optical scan ballots according to the directions provided to the voter.

3 Ballots

3.1 Ballot Format

Ballots shall be designed to allow a voter to rank as many choices as there are candidates. However, if the voting system that is employed cannot accommodate a number of rankings equal to the number of candidates, the Clerk may limit the number of choices a voter may rank to the maximum number allowed by the voting system; except the number of choices shall not be less than six.

Ballots shall be designed to allow the voter to rank no fewer than two write-in candidates.

3.2 Ballot Instructions

For IRV elections, all ballots shall include instructions to voters that substantially instruct the voters as follows:

INSTRUCTIONS:
Mark you 1st choice in the 1st column completely like this □ fill in the ■
To indicate a 2nd choice, select a different candidate in the 2nd column.
To indicate a 3rd choice, select a different candidate in the 3rd column, etc.
a. Rank candidates in order of preference
b. You may rank as few candidates as you wish or as many as are allowed
c. Do not skip rankings and <u>only one choice per column and one choice per row</u>

d. With a black ball point pen or marking device, completely fill in the □ like this ■
e. You may write in a candidate by filling in the □ and writing the name on the Write In line

3.3 Uniformity across ballot types

If more than one type of voting equipment or ballot will be used in a ranked voting contest, all equipment and ballot types used shall provide substantially similar instructions and shall allow voters to rank the same number of candidates and write-ins.

4 General Tabulation Provisions

4.1 Determination of winners

To determine the winners of a ranked voting contest, the tabulation method of Section 5 or Section 6 shall be used, depending on whether the number of seats to fill is one or more than one, respectively.

4.2 Summary reports

The City Clerk shall issue the following reports as soon as feasible:
  (i)   A summary report listing the total number of votes for each candidate, the number of blank ballots and the number of exhausted ballots in each round;
  (ii)   A comprehensive report listing the results in the summary report by precinct.

Preliminary versions of the summary report shall be made available to the public as soon as possible after the commencement of the official tabulation of votes.   Preliminary reports shall be clearly marked as "Preliminary."

4.3 Publicizing tabulation procedures

In advance of the election, the City Clerk shall conduct an education and outreach campaign prior to each election to familiarize electors with ranked choice voting. The education and outreach program shall include sample ballots.

5 Instant Runoff Voting (Ranked Choice) – Mayor

5.1 Overview

Instant Runoff voting for Mayor is a majoritarian voting method using ranked choice voting designed to accommodate more than two candidates seeking the office of the Mayor. Each voter may rank candidates by preference from first choice to last choice. Votes are tabulated

until one candidate has a majority of the votes cast. That candidate shall be declared the winner.

It should be noted that as in any election there is a mathematical possibility, albeit slight, that voting could be completed following all rounds of voting with two or more candidates tied without achieving a majority. A tie break system that is consistent with Colorado State Statute is set forth herein.

5.2 Tabulation of Votes

5.2.1. <u>Round One, Initial Tabulation of Votes</u>

In the initial ballot tabulation, each voter's first choice ranking shall be counted as a vote cast for that candidate. If a candidate receives a majority of all of the votes cast, as tabulated in this Round One, then that candidate shall be declared the winner.

In the event that no candidate receives a majority of the votes cast, as tabulated in this Round One, then the instant runoff procedure set forth below shall be commenced.

5.2.2 <u>Commencement Of Instant Runoff Vote</u>

<u>Round Two</u>

In the event that no candidate receives a majority of the total of the votes cast, then the candidate who receives the fewest votes tabulated in Round One shall be eliminated. All ballots are then recounted with the highest ranking for a continuing candidate counted as one vote for that candidate. This tabulation shall continue in subsequent rounds until one candidate receives a majority of the votes cast.

In the event of a tie between or among the candidates who have received the fewest number of votes, then the tie-breaker system set forth in Section 5.3, below shall be employed. The loser of the tie-breaker shall be eliminated and the tabulation shall continue.

5.3 Determination of Tie Votes

In the event that a tie exists at any level of the proceeding that would prevent moving forward without a resolution of the tie, the tie shall be resolved pursuant to this section.

The first tie-breaker shall be based upon the number of first choice rankings, with the candidate with the largest number of first choice rankings being determined the winner of the tie breaker. In the event that number shall be tied, then the winner shall be determined by lot pursuant to Colorado State Statute.

6 Instant Runoff Voting (Ranked Choice) – City Council

6.1 Overview

Instant Runoff voting for City Council is also a majoritarian voting method using ranked choice voting designed to accommodate multiple candidates seeking two open seats. If necessary, the ballots are counted in a series of rounds. Each voter may rank candidates by preference from first choice to last choice. All ballots are counted. Votes are tabulated in Rounds until two candidates who have the most votes also receive the threshold number of votes to be declared the winner.

It should be noted that as in any election there is a mathematical possibility, albeit slight, that voting could be completed following all rounds of voting with two or more candidates tied without achieving the threshold. A tie-break system that is consistent with Colorado State Statute is set forth herein.

6.2 Tabulation of Votes for City Council

6.2.1 Threshold Calculation

At the commencement of the vote tabulation, the City Clerk shall certify the total number of votes cast for City Council and the number required to be elected to a seat on the City Council, which by Charter is defined as fifty percent (50%) of the total votes casts for city council plus one vote. All ballots with a counted first (1st) or second (2nd) ranking for a candidate for City Council shall be counted in the total number of votes cast. Blank ballots for City Council shall not be counted in this total. By way of example, if 2000 ballots are cast in the election, including four blank ballots for City Council, then a candidate will need the highest number or second highest number of votes of all the candidates and at least 999 votes in order to be deemed a winner of a council seat. (((2000-4) x 50%) + 1 = 999). This number shall be referred to below as the "initial threshold".

If an instant runoff is required the threshold for the final round shall be determined by the Clerk. This threshold shall be the total number of votes cast for the two continuing candidates multiplied by 50% plus one.

In the event that the number of ballots in which votes are casts is odd, fifty percent is a fraction. The next whole number shall be deemed the threshold. By way of example. If 2000 votes are cast and five are deemed blank ballots the threshold shall be 998. ((2000-5))2 = 997.5. The next whole number is 998.)

6.2.2. Round One - Initial Tabulation of Votes

All votes cast for first and second ranked candidates shall be counted in Round One, the initial ballot tabulation. The two candidates who receive the most votes among the first and second ranked votes casts shall be declared the winners, so long as the candidate has received the initial threshold determined by the Clerk pursuant to 6.2.1, above. In the event that the two candidates who have received the most votes have both reached the initial threshold in this Round One ballot tabulation, then both candidates shall be declared winners and the election shall be deemed completed.

In the event that one or more of the candidates who have received the highest vote total in the initial tabulation have not reached the initial threshold, then the instant runoff voting procedures set forth below shall commence.

6.2.3 Commencement of Instant Runoff Vote

6.2.3. a. Procedure If No Candidate Receives the Initial Threshold in Round One

In the event that no candidate receives the initial threshold set forth above, the following instant runoff procedure shall be implemented:

Round Two – Determination of Winner of 1st City Council Seat

In the event that no candidate receives the initial threshold in Round One, then the four candidates with the highest vote total shall enter Round Two. In the event that the lowest vote total of the candidates who would enter the instant runoff tabulation is tied, then all candidates with that vote total shall enter the instant runoff tabulation. (In the unlikely event that the number of candidates in the fourth position equal the remaining number of candidates, then the tie break procedure set forth in Section 6.3, below, shall be employed so that only one of the candidates with the lowest vote total moves forward into this round.)

The highest ranking for a continuing candidate shall be counted as one vote for that candidate. The candidate with the fewest number of votes is eliminated, and all ballots are recounted as one vote for each voter's highest-ranked continuing candidate. This process of eliminating candidates with the fewest votes and recounting ballots continues until two candidates remain. In the event that there are two or more candidates tied with the fewest vote total, the tie shall be resolved pursuant to Section 6.3, below, so that the loser or losers of the tie-breaker determination shall be eliminated. When two candidates remain, all votes cast are recounted so that the highest ranking for a continuing candidate is counted as one vote for that candidate. The candidate with fifty percent plus one of the votes cast shall be deemed elected to a seat on the Aspen City Council. In the event that there is a tie between these two candidates, the tie shall be resolved pursuant to Section 6.3, below.

The tabulation shall then continue to determine the winner of the second City Council seat, as set forth below.

Round Three – Determination of Winner of Second City Council Seat.

Upon determining the winner of the first city council seat, the winner of the first seat is deemed eliminated and the three remaining candidates shall continue into Round Three. The highest ranking for a candidate who is continuing shall be counted as one vote for that candidate. The candidate with the fewest number of votes is eliminated, and all ballots are recounted as one vote for each voter's highest ranking of the two continuing candidates. The candidate with fifty percent plus one of the votes cast shall be deemed elected to the second seat on the Aspen City Council. In the event that there is a tie between these two candidates, the tie shall be resolved pursuant to Section 6.3, below

6.2.3. b. Procedure If One Candidate Is Elected In Round One

Round Two – Determination of Second City Council Seat

In the event that the candidate who receives the most votes also receives the initial threshold in Round One, the initial vote tabulation, then that candidate shall be deemed the winner of one city council seat. The two candidates with the next highest vote totals shall enter the instant runoff tabulation. In the event that the lowest vote total of these two positions is tied, then all candidates with that vote total shall enter Round Two. (In the unlikely event that the number of candidates in the second position equal the remaining number of candidates, then the tie break procedure set forth in Section 6.3, below, shall be employed so that only one of the candidates with the lowest vote total moves forward into this round.)

All ballots shall be recounted with the highest ranking for a continuing candidate counted as one vote for that candidate. If there are only two candidates in this Round Two, then the candidate with the most votes cast shall be deemed elected to the second City Council seat.

In the event that there existed a tie between or among the lowest vote getters following the tabulation in Round One, the candidate with the lowest vote total at the end of Round Two shall be eliminated. Counting shall continue until the all votes are tabulated between two final candidates. The candidate with the most votes cast shall be deemed elected to the second City Council seat.

In the event of a tie vote between the final two remaining candidates, then the winner shall be determined pursuant to Section 6.3, below.

6.3 Determination of Tie Votes

In the event that a tie exists at any level of the proceeding that would prevent moving forward without a resolution of the tie, the tie shall be resolved pursuant to this section.

The first tie-breaker shall be based upon the number of first choice rankings, with the candidate with the largest number of first choice rankings being determined the winner of the tie breaker.

In the event that that number shall be tied, then the winner shall be determined by lot pursuant to Colorado State Statute, C.R.S. Section 31-10-1204.

7 Tabulation Center

The City Clerk shall designate one location within the City of Aspen to serve as the ranked-choice voting tabulation center prior to each election. The center shall be reasonably accessible to the public for the purpose of observing the vote tabulation. At a minimum, the City Clerk shall arrange the counting of ballots so that the candidates and their representatives may observe the ballots as they are counted. The City Clerk shall ensure that public observation does not interfere with the counting of the ballots.

8 Miscellaneous Tabulation Provisions

8.1 General Provisions

This section shall apply to ranked voting contests tabulated by hand or computer.

8.2 Uniform Counting Standards

Pursuant to Section 1-7-309, C.R.S., in counting or examining ballots the intent of the voter shall be taken into consideration. To the extent not contrary to the rules set forth in the State Voter Intent Guide, Attachment 3, the following rules shall apply:

   a.   When a defective ranking is encountered during the tabulation the column containing the defective ranking shall be deemed an overvote. No votes in that ranking column nor any vote in a subsequent ranking column shall be counted and the ballot shall be deemed exhausted at that point.

   b.   When a duplicate ranking is encountered, the first ranking and any ranking before the duplication shall be counted. No further rankings on the ballot shall be counted and the ballot shall be deemed exhausted at that point.

8.3 Ballots not Counted

Ballots not counted because of election judges' inability to determine the elector's intent for all candidates shall be marked "defective" on the back, banded together and separated from the other ballots, returned to the ballot box, and preserved by the City Clerk pursuant to Section 1-7-801, C.R.S.

8.4 Recounts

Except as otherwise set forth in this Section 8.4, Recounts shall be permitted in accordance with Colorado Municipal Election Laws, C.R.S. Section 31-10-1207 and conducted in accordance with the rules set forth in the latest version of the "Election Rules of the Colorado Secretary of State."

8.4.1　Automatic recount. The Clerk shall conduct a recount of the votes cast in any election if the highest number of votes cast and the next highest number of votes cast in the final round of any tabulation is less than or equal to three percent of the highest number of votes casts in the final round.

8.4.2　Method of Recount. In the event a recount is mandated pursuant to Section 8.4.1, above, the Clerk shall conduct such a recount through a hand count of all ballots. Such hand count shall be conducted in a manner consistent with this Instant Runoff Procedures Manual and the Election Rules of the Secretary of State.

9 Changes to Procedures

The City Clerk may change the procedures described in this document to accommodate any voting equipment that may be available for processing votes or for tabulating votes, provided that the new procedures are in substantial compliance with the procedures described here, the smallest feasible number of changes is made, and the changes to the tabulation procedures are made public in accordance with this document.

10 Recess in Tabulations

The City Clerk may in his or her sole discretion call for a recess in the tabulation of ballots for a period of no more than twelve (12) hours, including a period of time to include over night. In the event that the City Clerk calls for a recess all ballots shall be secured during the period of the recess. The process of securing the ballots shall include the following:

a.　The City Clerk shall place all ballots in a combination safe capable of protecting the ballots from theft, fire, and water damage.

b.　The combination to the safe shall be known only to the City Clerk, the Chief of Police and the Finance Director.

c.　Each time the ballots are placed in the safe or taken out of the safe, at least two witnesses shall be present and shall sign the following statement under oath:

I, the undersigned, do swear, under penalty of law, that I witnessed _____ (remove/place) all of the ballots (into/out) of a combination safe on this _____ day of _____, _____ at approximately _____ o'clock ___.m. and securely locked the

same in my presence (with the ballots inside the combination safe/after removing all of the ballots.)

————————————————————
Witness

Properly Marked

MAYOR (two year term)	1st Choice	2nd choice	3rd choice	4th choice
Fill in one oval per choice		Your 2nd or 3rd choice will be considered if your 1st choice Loses		
Colonel Mustard	☐	☐	■	☐
Scarlett O'Hara	■	☐	☐	☐
Nicholas Nickleby	☐	☐	☐	■
Eleanor Rigby	☐	■	☐	☐

First choice vote will be counted

Second Choice vote will only be counted after the voter's first choice candidate is eliminated

Third choice volte will only be counted after the voter's first and second choice candidates are eliminated

Attachment1

Un-used ranking/Exhausted Ballot

MAYOR (two year term)	1ˢᵗ Choice	2ⁿᵈ choice	3ʳᵈ choice	4th choice
Fill in one oval per choice	Your 2ⁿᵈ or 3ʳᵈ choice will be considered if your 1ˢᵗ choice Loses			
Colonel Mustard	☐	☐	☐	☐
Scarlett O'Hara	☐	☐	☐	☐
Nicholas Nickleby	☐	■	☐	☐
Eleanor Rigby	■	☐	☐	☐

- **First choice vote will be counted**
- **Second choice vote will only be counted after the voter's first choice candidate is eliminated**
- **Third choice vote is blank, so it will not be counted**

Duplicate Ranking

MAYOR (two year term)	1st Choice	2nd choice	3rd choice	4th choice
Fill in one oval per choice	Your 2nd or 3rd choice will be considered if your 1st choice Loses			
Colonel Mustard	■	■	■	☐
Scarlett O'Hara	☐	☐	☐	☐
Nicholas Nickleby	☐	☐	☐	☐
Eleanor Rigby	☐	☐	☐	☐

- **The first choice vote will be counted**
- **If the first choice candidate is eliminated, the second and third choice votes will not be counted**

Inconsistent Ordering

MAYOR	1st	2nd	3rd	4th
(two year term)	Choice	choice	choice	choice

Fill in one oval per choice   Your 2nd or 3rd choice will be considered if your 1st choice Loses

	1st Choice	2nd choice	3rd choice	4th choice
Colonel Mustard	☐	☐	☐	☐
Scarlett O'Hara	☐	■	☐	☐
Nicholas Nickleby	☐	☐	☐	☐
Eleanor Rigby	■	☐	■	☐

- **First choice vote will be counted**

- **Second Choice vote will only be counted after the voter's first choice candidate is eliminated**

- **Third choice vote will not be counted**

Over-voted 1st ranking

MAYOR	1st Choice	2nd choice	3rd choice	4th choice
(two year term)				
Fill in one oval per choice	Your 2nd or 3rd choice will be considered if your 1st choice Loses			
Colonel Mustard	■	☐	☐	☐
Scarlett O'Hara	■	☐	☐	☐
Nicholas Nickleby	☐	■	■	☐
Eleanor Rigby	☐	☐	☐	☐

- **First choice vote will not be counted**
  - o **Unable to determine voter intent due to over vote**

- **Second Choice vote will not be counted**

- **Third choice vote will not be counted**

Over-voted 2nd ranking

MAYOR	1st	2nd	3rd	4th
(two year term)	Choice	choice	choice	choice

Fill in one oval per choice

Your 2nd or 3rd choice will be considered if your 1st choice Loses

	1st Choice	2nd choice	3rd choice	4th choice
Colonel Mustard	☐	■	☐	☐
Scarlett O'Hara	☐	☐	☐	☐
Nicholas Nickleby	■	☐	■	☐
Eleanor Rigby	☐	■	☐	☐

- **First choice vote will be counted**

- **Second Choice vote will not be counted**

- **Third choice vote will not be counted**

Skipped Ranking #1

MAYOR	1st	2nd	3rd	4th

MAYOR (two year term)	1st Choice	2nd choice	3rd choice	4th choice
Fill in one oval per choice		Your 2nd or 3rd choice will be considered if your 1st choice Loses		
Colonel Mustard	☐	☐	■	☐
Scarlett O'Hara	■	☐	☐	☐
Nicholas Nickleby	☐	☐	☐	☐
Eleanor Rigby	☐	☐	☐	☐

- **First choice vote will be counted**

- **Third choice vote will be counted if the first choice candidate is eliminated**

Skipped Ranking #2

MAYOR	1st	2nd	3rd	4th
(two year term)	Choice	choice	choice	choice
Fill in one oval per choice		Your 2nd or 3rd choice will be considered if your 1st choice Loses		
Colonel Mustard	☐	☐	☐	☐
Scarlett O'Hara	☐	☐	☐	☐
Nicholas Nickleby	☐	☐	☐	☐
Eleanor Rigby	☐	☐	■	☐

- **This ranking will be counted in the first round**

Undervote/Blank Ballot

MAYOR	1st	2nd	3rd	4th
(two year term)	Choice	choice	choice	choice

Fill in one oval per choice

Your 2nd or 3rd choice will be considered if your 1st choice Loses

	1st	2nd	3rd	4th
Colonel Mustard	☐	☐	☐	☐
Scarlett O'Hara	☐	☐	☐	☐
Nicholas Nickleby	☐	☐	☐	☐
Eleanor Rigby	☐	☐	☐	☐

- **This is a blank ballot; it will not count toward the majority**

Over-voted Duplicate

CITY COUNCIL
(Four year term)

Two City Council Members will be elected for 4-year terms. Rank your choices in columns 1 through 8. Your first and second choices will be counted in the first round of tallies. Do NOT duplicate your choices.

	Vote for ONE 1st	Vote for ONE 2nd	Vote for ONE 3rd	Vote for ONE 4th	Vote for ONE 5th	Vote for ONE 6th	Vote for ONE 7th	Vote for ONE 8th
Jack B. Nimble	☐	☐	☐	■	☐	☐	☐	☐
Greta Greenwood	■	■	☐	☐	☐	☐	■	☐
David Crockett	☐	☐	■	☐	☐	☐	☐	☐
Travis Thompson	☐	☐	☐	☐	■	☐	☐	☐
Che Guevara	☐	☐	☐	☐	☐	■	☐	☐
John Q. Adams	☐	☐	☐	☐	☐	☐	☐	☐
Wilbur Mills	☐	☐	☐	☐	☐	☐	☐	☐
Peter Romanov	☐	☐	☐	☐	☐	☐	☐	☐

- **First choice vote will be counted**
- **Second choice vote will not be counted as it is a duplicate ranking and no further candidates will receive votes**

Over-voted Council 2 rankings

CITY COUNCIL
(Four year term)

Two City Council Members will be elected for 4-year terms. Rank your choices in columns 1 through 8. Your first and second choices will be counted in the first round of tallies. Do NOT duplicate your choices.

	Vote for ONE 1st	Vote for ONE 2nd	Vote for ONE 3rd	Vote for ONE 4th	Vote for ONE 5th	Vote for ONE 6th	Vote for ONE 7th	Vote for ONE 8th
Jack B. Nimble	■	☐	☐	☐	☐	☐	☐	☐
Greta Greenwood	■	☐	☐	☐	☐	☐	☐	☐
David Crockett	☐	■	☐	☐	☐	☐	☐	☐
Travis Thompson	☐	■	☐	☐	☐	☐	☐	☐
Che Guevara	☐	☐	☐	☐	☐	☐	☐	☐
John Q. Adams	☐	☐	■	☐	☐	☐	☐	☐
Wilbur Mills	☐	☐	☐	■	☐	☐	☐	☐
Peter Romanov	☐	☐	☐	☐	■	☐	☐	☐

- **This ballot contains a defective ranking and it will not count toward the threshold nor will any candidate receive a vote**

Over-voted Council 3 rankings

CITY COUNCIL
(Four year term)

Two City Council Members will be elected for 4-year terms. Rank your choices in columns 1 through 8. Your first and second choices will be counted in the first round of tallies. Do NOT duplicate your choices.

	Vote for ONE 1st	Vote for ONE 2nd	Vote for ONE 3rd	Vote for ONE 4th	Vote for ONE 5th	Vote for ONE 6th	Vote for ONE 7th	Vote for ONE 8th
Jack B. Nimble	■	☐	☐	☐	☐	☐	☐	☐
Greta Greenwood	■	☐	☐	☐	☐	☐	☐	☐
David Crockett	☐	■	☐	☐	☐	☐	☐	☐
Travis Thompson	☐	■	☐	☐	☐	☐	☐	☐
Che Guevara	☐	☐	■	☐	☐	☐	☐	☐
John Q. Adams	☐	☐	■	☐	☐	☐	☐	☐
Wilbur Mills	☐	☐	☐	■	☐	☐	☐	☐
Peter Romanov	☐	☐	☐	☐	■	☐	☐	☐

- **This ballot contains a defective ranking and it will not count toward the threshold nor will any candidate receive a vote**

Over-voted Duplicate 2nd ranking

CITY COUNCIL
(Four year term)

Two City Council Members will be elected for 4-year terms. Rank your choices in columns 1 through 8. Your first and second choices will be counted in the first round of tallies. Do NOT duplicate your choices.

	Vote for ONE 1st	Vote for ONE 2nd	Vote for ONE 3rd	Vote for ONE 4th	Vote for ONE 5th	Vote for ONE 6th	Vote for ONE 7th	Vote for ONE 8th
Jack B. Nimble	☐	☐	☐	☐	☐	☐	■	☐
Greta Greenwood	☐	☐	☐	■	☐	☐	☐	☐
David Crockett	☐	■	☐	☐	☐	☐	☐	☐
Travis Thompson	☐	☐	☐	☐	☐	☐	☐	■
Che Guevara	☐	☐	☐	■	☐	■	☐	☐
John Q. Adams	■	☐	☐	☐	☐	☐	☐	☐
Wilbur Mills	☐	■	☐	☐	■	☐	☐	☐
Peter Romanov	☐	☐	■	☐	☐	☐	☐	☐

- **First choice vote will be counted**
- **This ballot contains a defective ranking at the second choice. No votes will be counted for rankings for the 2nd or subsequent columns.**

CITY OF ASPEN REGULAR MUNICIPAL ELECTION
MAY 5, 2009

INSTRUCTIONS: Mark you 1ˢᵗ choice in the 1ˢᵗ column completely fill in the ▢ like this ■.   To indicate a 2ⁿᵈ choice, select a different candidate in the 2ⁿᵈ column. To indicate a 3ʳᵈ choice, select a different candidate in the 3ʳᵈ column, etc.

a. Rank candidates in order of preference
b. You may rank as few candidates as you wish or as many as are allowed
c. Do not skip rankings and <u>only one choice per column and one choice per row</u>
d. With a black ball point pen or marking device, completely fill in the ▢, like this ■
e. You may write in a candidate by filling in the ▢ and writing the name on the Write In line

MAYOR
(two year term)
Only one choice per column and one choice per row

	1ˢᵗ choice	2ⁿᵈ choice	3ʳᵈ choice	4ᵗʰ choice
Colonel Mustard	▢	▢	▢	▢
Scarlett O'Hara	▢	▢	▢	▢
Nicholas Nickleby	▢	▢	▢	▢
Eleanor Rigby	▢	▢	▢	▢
Write In _____	▢	▢	▢	▢

CITY COUNCIL
(Four year term)

Two City Council Members will be elected for 4-year terms. Indicate your 2 first choices by filing in one box in each of the first choice columns. Rank your choices in columns 1 through 8. Your first and second choices <u>will</u> be counted in the first round of tallies. Do NOT duplicate your choices. **Only one choice per column and one choice per row**

	1ˢᵗ choice	2ⁿᵈ choice	3ʳᵈ choice	4ᵗʰ choice	5ᵗʰ choice	6ᵗʰ choice	7ᵗʰ choice	8ᵗʰ choice
Jack B. Nimble	▢	▢	▢	▢	▢	▢	▢	▢
Greta Greenwood	▢	▢	▢	▢	▢	▢	▢	▢
David Crockett	▢	▢	▢	▢	▢	▢	▢	▢
Travis Thompson	▢	▢	▢	▢	▢	▢	▢	▢
Che Guevara	▢	▢	▢	▢	▢	▢	▢	▢
John Q. Adams	▢	▢	▢	▢	▢	▢	▢	▢
Wilbur Mills	▢	▢	▢	▢	▢	▢	▢	▢
Peter Romanov	▢	▢	▢	▢	▢	▢	▢	▢
Write In _____	▢	▢	▢	▢	▢	▢	▢	▢
Write In _____	▢	▢	▢	▢	▢	▢	▢	▢

Attachment 2

Voter Intent

A GUIDE TO THE DETERMINATION OF VOTER INTENT FOR COLORADO ELECTIONS

Published by Colorado Secretary of State
Mike Coffman
2008

Attachment 3

DETERMINATION OF VOTER INTENT

This Guide is intended to assist election officials and election judges with determining the intent of a voter when such intent may not be immediately clear. It supplements and illustrates the legal requirements for determining voter intent that are contained in Election Rule 27, "Rules Concerning Uniform Ballot Counting Standards". Although it is intended that this Guide be consistent with Rule 27, in the event of a conflict between this Guide and Rule 27, the requirements of Rule 27 must be followed.

This guide provides instructions for a variety of different scenarios, but there is no way to address every situation that may arise. Therefore, election officials are strongly encouraged to refer to Rule 27 when deciding how and when to determine a voter's intent.

When to Review Voter Intent

It is very important to remember that election officials only consider voter intent in three situations:

1) when a county is hand-counting paper ballots;
2) during a recount of votes cast for any voting system; and,
3) when ballots are being examined by the resolution board in a central location to determine if a ballot is a blank ballot, an overvoted ballot, or contains one or more write-in votes.

Under Colorado law and Secretary of State Rules, voter intent should not be reviewed or considered during the initial count of ballots for those counties using polling place optical scan equipment. Please refer to Rule 27 for more information.

TABLE OF CONTENTS

Chapter 1
Target Area

The Target Area is the oval, square, or incomplete arrow opposite a candidate's name or ballot response.

Example 1: <u>Target Areas are Circled</u>:

All votes within the target area will be considered valid and will count provided there are not more votes than the maximum number of candidates or responses for a ballot measure allowed (see Chapter 4).

Example 2: <u>Valid Target Area Markings</u>:

A defective or incomplete mark on any ballot in a proper place should be counted if no other cross mark appears on the ballot indicating an intention to vote for some other candidate or ballot issue.

Example 3: <u>Incomplete Marks that Count as a Valid Vote</u>:

Exceptions

Marks made in the target area are not counted as valid votes if one or more of the following apply:

a. Obvious stray marks
b. Hesitant marks
c. Parts of written notes
d. Corrected vote (see Chapter 3)

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a. Obvious stray marks

The mark near Joyce Foster's name is a stray mark that should not be counted. Even though it partially extends into the target area of the candidate, it is not primarily concentrated in that area. The same is true of the mark near Catherine "Kit" Roupe's name. Because the mark is considered stray, it is not counted.

Example 4: Obvious Stray Marks Outside the Target Area:

Example 5: Obvious Stray Marks Through the Target Area:
Both are examples of stray marks and should not be counted, even though they extend through the target areas.

Example 6: <u>Stray Marks Extending Outside Target Area - Into Another Target Area</u>:
While the mark extends outside the target area of one candidate and into another target area, it clearly indicates a preference for one candidate. This ballot would be counted as a vote for Sheila Anne Hicks.

Example 7: <u>Candidate's Name Stricken</u>:
In this example, the voter has stricken the name of candidate Catherine "Kit" Roupe. Part of this mark extends into the target area, but it is considered a stray mark and no vote is counted for the candidate. This would be considered an undervote.

b. Hesitant Marks

Example 8: <u>Hesitant Marks</u>:
While there is a mark in the target area for both candidates, the smaller mark seems the result of a hesitation and can be disregarded. This ballot would count as a vote for Catherine "Kit" Roupe. The same is true of the second ballot, which represents a vote for Joyce Foster.

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c. Parts of Written Notes

Example 9: <u>Notes Written Outside the Target Area:</u>
The marks on this ballot that extend into the target areas are part of written notes. None of the written remarks would be considered a valid vote for Joyce Foster.
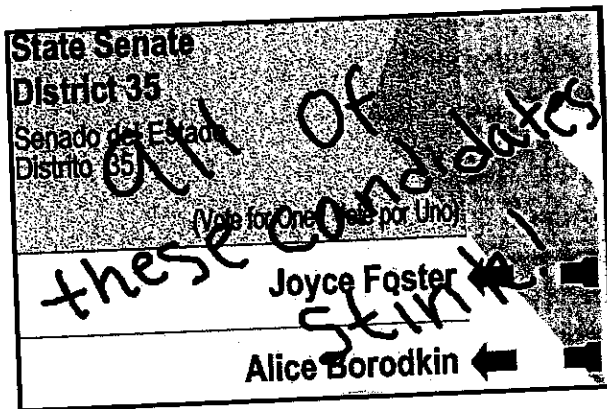
Example 10: <u>Marks Inside the Target Area as Written Comments:</u>
The marks that extend into the target areas are parts of written comments on the ballot. This should not be counted as a vote for Randy L. Baumgardner.
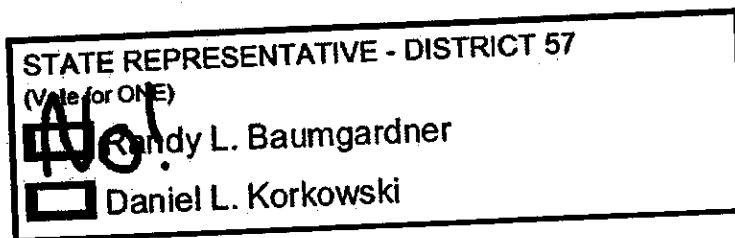
Example 11: <u>Marks Outside the Target Area as Written Instructions:</u>
In this example, a vote would be counted for Sheila Anne Hicks.
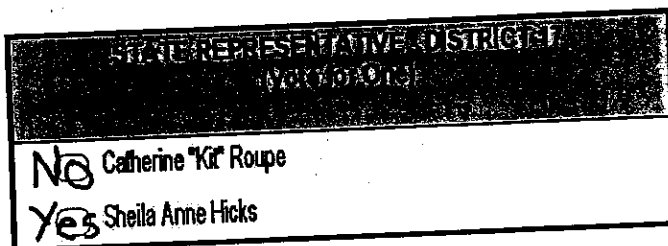
d. Corrected Vote

Please see Chapter 3 for an explanation and examples of this exception.

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Chapter 2
Consistent Patterns

If a voter marks outside the target area, those votes shall be considered valid if the voter uses a consistent pattern or method of marking. All marks <u>must follow the same pattern or method</u>.

Example 1(a): <u>Consistent Marking Patterns Outside the Target Area</u>:

Example 1(b): <u>Consistent Marking Outside the Target Area</u>:
The voter used a consistent set of marks throughout the ballot. Even though the marks do not fall within the target area, each ballot would count as a valid vote for Jeanne Labuda, James E. Johnson, Jr., and Anne L. McGihon.

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Example 1(c): <u>Consistent Marking Outside the Target Area</u>:
In this example, the voter has made the same mark throughout the ballot that falls outside the target areas. Because the marks are all the same, all the votes on this ballot are valid.

```
STATE REPRESENTATIVE - DISTRICT 57
(Vote for ONE)
  [▢] Randy L. Baumgardner
  (▢) Daniel L. Korkowski
DISTRICT ATTORNEY - 14th JUDICIAL DISTRICT
(Vote for ONE)
  (▢) Elizabeth Oldham
COUNTY COMMISSIONER - DISTRICT 1
(Vote for ONE)
  (▢) Tom Gray
COUNTY COMMISSIONER - DISTRICT 2
(Vote for ONE)
  (▢) Saed F. Tayyara
```

However, if the voter marks <u>any</u> choices with an X, check, or other mark in the target area, <u>only</u> the responses where the target area is marked shall be counted.

Example 2: <u>Inconsistent Marking Patterns</u>:
On the left, a valid vote would only be counted for Jeanne Labuda.
On the right, only valid votes for Elizabeth Oldham and Tom Gray would be counted.

```
State Representative
District 1
Representante del Estado
Distrito 1
       (Vote for One / Vote por Uno)
   Jeanne Labuda  ⬅ X ◼
State Representative
District 2
Representante del Estado
Distrito 2
       (Vote for One / Vote por Uno)
   (Mark Ferrandino) ⬅  ◼
   James E. Johnson, Jr. ⬅  ◼
State Representative
District 3
Representante del Estado
Distrito 3
       (Vote for One / Vote por Uno)
   (Anne L. McGihon) ⬅  ◼
```

```
STATE REPRESENTATIVE - DISTRICT 57
(Vote for ONE)
  [▢] Randy L. Baumgardner ✓
  [▢] Daniel L. Korkowski
DISTRICT ATTORNEY - 14th JUDICIAL DISTRICT
(Vote for ONE)
  [✓] Elizabeth Oldham
COUNTY COMMISSIONER - DISTRICT 1
(Vote for ONE)
  [✓] Tom Gray
COUNTY COMMISSIONER - DISTRICT 2
(Vote for ONE)
  [▢] Saed F. Tayyara ✓
```

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Example 3(a): <u>Inconsistent Marking Outside the Target Area:</u>
In this example, the voter made marks outside the target areas but did not make them in a consistent manner. As there are no marks in any target area, there are **no valid votes on this ballot**.


Example 3(b): <u>Inconsistent Marking Inside and Outside the Target Area:</u>
While the voter has made the same marks throughout the ballot, some but not all are outside the target areas. In this scenario, only the marks within the target areas count as valid votes for Randy L. Baumgardner, Elizabeth Oldham, and Saed F. Tayyara.

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Example 3(c): <u>Inconsistent Marking Inside and Outside the Target Area</u>:

In this example, there are marks outside the target areas, but not in a consistent manner throughout the whole ballot. Also, because some target areas are marked, only those votes are valid. In this example, the votes for Jeanne Labuda and Anne L. McGihon are valid.

- 11 -
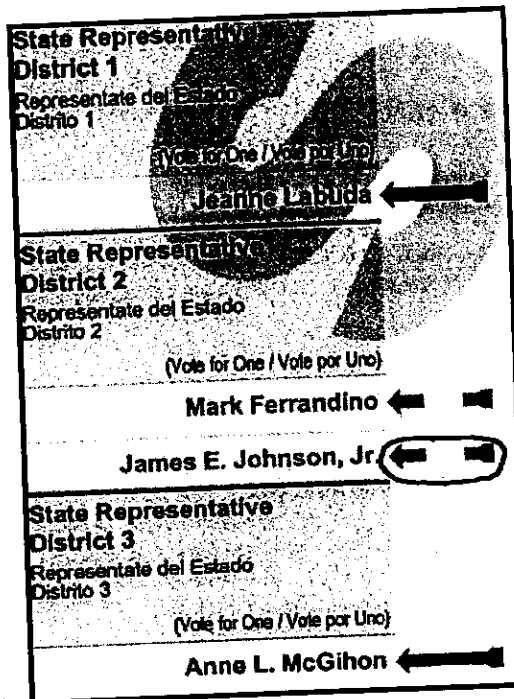
Chapter 3
Overvotes and Corrected Votes

An overvote is a race or ballot measure which contains votes for more than the maximum number of candidates or responses for a ballot measure allowed. No votes for that race or issue shall be counted unless the voter corrects the marks by providing an explanation of his or her desired choice. If a voter has corrected the vote, the indicated vote shall be considered valid.

If ballots are counted using an optical scan machine, overvoted races are rejected by the voting system. When ballots are being examined by the resolution board in a central location, election judges consider voter intent to determine if a ballot is a blank ballot, an overvoted ballot, or contains one or more write-in votes. Other than ballots being examined by the resolution board, voter intent should **not** be considered upon initial count and the ballot should not be duplicated. If a recount is required, voter intent would then be taken into consideration.

Example 1: <u>An Overvote</u>:

STATE REPRESENTATIVE - DISTRICT 47
(Vote for One)

● Catherine "Kit" Roupe

● Sheila Anne Hicks

State Senate District 35

Senado del Estado Distrito 35

(Vote for One / Vote por Uno)

Joyce Foster ◄━━━━

Alice Borodkin ◄━━━━

STATE REPRESENTATIVE - DISTRICT 57
(Vote for ONE)

█ Randy L. Baumgardner

█ Daniel L. Korkowski

Approved October 2008
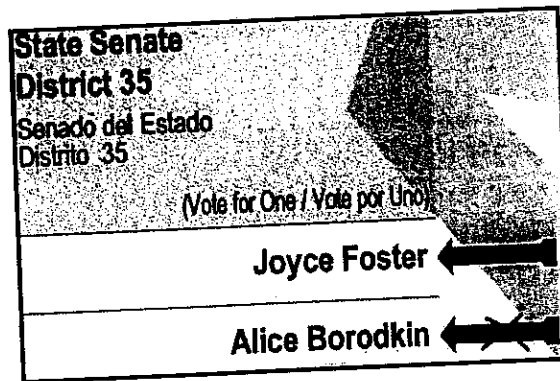
Invalid Correction of Votes

Example 2: <u>Second Choice Marked</u>:
Pursuant to C.R.S. § 1-7-508(2), when it is impossible to determine the voter's choice of candidate or vote, the vote shall not be counted. In this instance it is unclear if the X is a vote or an attempt to strike a vote. As a result of both target areas being marked the voter's intent is unclear. Here, the voter has overvoted and a vote for neither candidate should count.
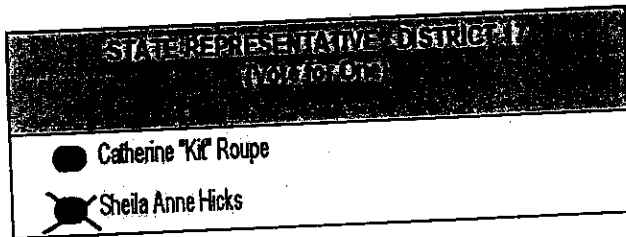
Example 3:
In this example, the vote should not count as a valid vote for either candidate, as the voter's intent cannot be determined.
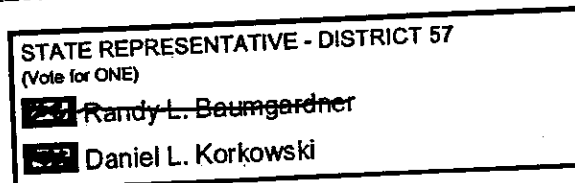

Valid Correction of Votes
If a voter has marked more than one target area, the vote that has been crossed out shall be stricken and the second choice that has not been stricken shall be counted as a valid vote.

Example 4(a): <u>Valid Corrections</u>:
Here the voter has indicated a willingness to correct their vote, and vote for Daniel. L. Korkowski would be counted on this ballot. The strike through here amounts to written instructions.

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Example 4(b): <u>Valid Corrections</u>:

By drawing a line through the name of a candidate, the voter indicates he or she wishes to correct his vote. This ballot would count as a vote for Sheila Anne Hicks.

STATE REPRESENTATIVE - DISTRICT 17
(Vote for One)

⊗ ~~Catherine "Kit" Roupe~~

⊗ Sheila Anne Hicks

Example 4(c): <u>Valid Corrections</u>:

In this example, the voter may have made an initial X to mark a vote for Randy L. Baumgardner. The voter then filled in the entire target area, attempting to clearly indicate their vote. This is a valid vote for Randy L. Baumgardner.

STATE REPRESENTATIVE - DISTRICT 57
(Vote for ONE)

■ Randy L. Baumgardner

☐ Daniel L. Korkowski

Example 5: <u>Corrections without Second Choices</u>:

In this example, the voter corrected the vote but did not make a second choice. The race is thus undervoted, and neither candidate receives a valid vote. The voter's intent in this example would only be discovered during a hand-count or recount..

STATE REPRESENTATIVE - DISTRICT 57
(Vote for ONE)

■ ~~Randy L. Baumgardner~~

☐ Daniel L. Korkowski

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Example 6: <u>A Write-In Vote to Correct the Voter's Previous Selection</u>:
In this example, the write-in vote for John Doe is the valid vote because the X serves to correct the voter's previous selection, and the voter has provided written instructions by writing-in a candidate.

Example 7: <u>Both Candidates Cancelled</u>:
Both votes on this ballot have been cancelled by lines through the names. Because no candidate is selected, this race is undervoted.

Approved October 2008

Chapter 4
Written Instructions

If a voter corrects a vote and provides written instruction on his or her intent, it shall be counted as the voter instructed. Written instructions may include words, circles, or arrows. **Note:** If ballots are counted using an optical scan machine, overvoted races, even those that may have written instructions, are rejected by the voting system. Voter intent should **not** be considered upon initial count, except for when ballots are being examined by the resolution board at a central count location, and the ballot should not be duplicated. However, if a recount is required, voter intent would then be taken into consideration. Voter intent is always considered during a hand-count.

Example 1: Voter's Written Correction:

Example 2: Valid Written Instructions:

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Example 3: <u>Valid Written Instructions Cancelling a Vote</u>:

In this example, the voter selected a candidate and then drew an X through both target areas to indicate he or she did not want to vote for either. Based on the "none" comment on the left, this race is undervoted, and neither candidate should receive a vote.
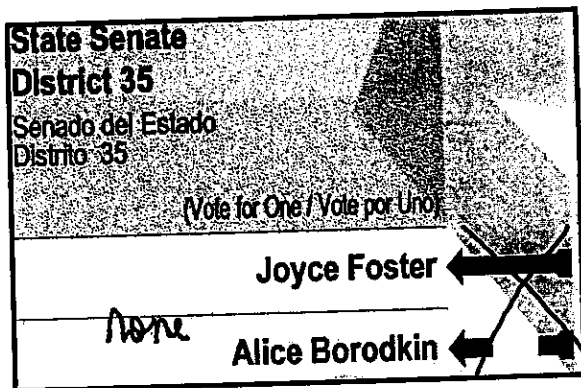
Example 4: <u>All Targeted Areas Marked and Voter Provides Instructions or Indications</u>:

While both target areas are marked, the line through Sheila Anne Hicks' name and the circle around Catherine "Kit" Roupe indicate that a valid vote should be counted for Catherine "Kit" Roupe.

Chapter 5
Write-In Candidates

A properly marked write-in vote is a vote where the voter physically writes in the name of <u>a legally qualified</u> write-in candidate in the space reserved and correctly marks the oval or square, or connects the arrow.

Example 1: <u>A Valid Vote for a Write-In Candidate:</u>

State Offices
Oficinas del Estado

State Board of Education
Congressional District 1
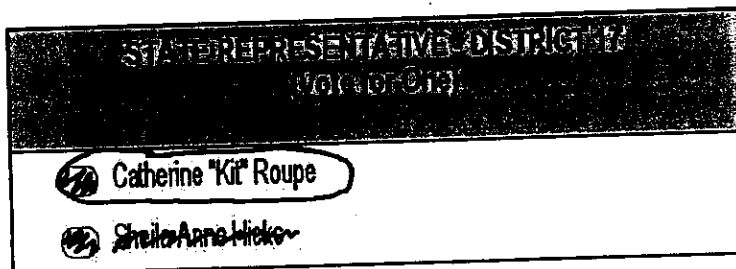Junta Estatal de Educacion por el
Primer Distrito Electoral Parlamentario

(Vote for One / Vote por Uno)

Elaine Gantz Berman ⬅ ◄

John Doe
(Write-In/Otro Nombre) ⬅

Note: According to Rule 27.7.4.3, if a voter fails to complete the target area but does write in the name of a qualified candidate, the voter's write-in selection is counted <u>only</u> during the initial count for <u>hand-counted</u> ballots <u>or</u> during any recount.

Example 2: <u>Write-In Votes without the Target Area Marked:</u>

State Offices
Oficinas del Estado

State Board of Education
Congressional District 1
Junta Estatal de Educacion por el
Primer Distrito Electoral Parlamentario

(Vote for One / Vote por Uno)

Elaine Gantz Berman ⬅ ◄

John Doe
(Write-In/Otro Nombre) ⬅ ◄

State Offices
Oficinas del Estado

State Board of Education
Congressional District 1
Junta Estatal de Educacion por el
Primer Distrito Electoral Parlamentario

(Vote for One / Vote por Uno)

Elaine Gantz Berman ⬅ ◄

John Doe
(Write-In/Otro Nombre) ⬅ ◄

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