



**PROCEDURE FOR VOTING WITH THE  
USE OF VOTE TABULATORS**



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# 1. Definitions

1.1 In this procedure,

1.1.1 **Act** means the Municipal Elections Act, 1996, S.O.c32 as amended;

1.1.2 **Auxiliary Compartment** means the ballot box in front of the tabulator and where electors' ballots are temporarily stored in the event that a Vote Tabulator fails to operate;

1.1.3 **Designated Election Official** means any person designated by the Clerk to perform certain election functions. The term "election official" includes but is not limited to the following: Deputy Returning Officer, Managing Deputy Returning Officer, Election Assistant, Revision Officer, and Poll Clerk;

1.1.4 **Memory Card** means a cartridge or card where all tabulated totals are scored;

1.1.5 **Vote Tabulator** means a machine that digitally scans the ballots to read the votes and tabulate the results.

# 2. Application of Procedure

2.1 This procedure applies to an election conducted by the Town of Kirkland Lake authorizing the use of vote tabulators at the voting places which was passed By-Law 06-031 under section 42 of the *Municipal Elections Act*, 1996.

2.2 Any matter not provided for in this procedure shall be dealt with as far as practicable in accordance with the principles of the *Municipal Elections Act*, 1996.

# 3. Election Officials

3.1 The Clerk shall, in writing, appoint election officials for the purposes of this Procedure and may designate their titles and duties.

# 4. Voting Subdivision

4.1 The municipality of the Town of Kirkland Lake is one voting division in one poll. In order to accommodate the number of voters, the list will be alphabetically split.

4.2 Voting results will be tabulated on voting day.

## 5. Ballots

- 5.1 There shall appear on the ballot to the right of each candidate's name a designated space for the marking of the ballot.
- 5.2 Subsection 5.1. applies with necessary modifications to by-laws and questions.
- 5.3 The instructions on the ballot direct the elector to vote by filling in the blank space adjacent to the candidate of their choice or the elector's answer to any by-law or question.

## 6. Programming of the Vote Tabulators

- 6.1 The vote tabulators shall be programmed so that a printed record of the number of votes cast for each candidate or answers to any bylaws or question can be produced.
- 6.2 Only those ballots which the tabulators cannot read (i.e. ballots damaged or defective or that have been marked in a way that the ballot cannot be processed by a vote tabulator) will be returned by the tabulator for inspection.

## 7. Testing of Vote Tabulators

- 7.1 Prior to voting day, the Clerk shall have the vote tabulators tested to ensure that they will accurately count the votes for all candidates or answers to by-laws and questions that are marked with the pen provided and with a valid mark in the designated area.
- 7.2 When testing the vote tabulators, adequate safeguards shall be taken to ensure that the system, or any part of it, that is used for processing and tabulating votes is isolated from all other applications or programs and that no remote devices are capable of gaining access to the system.
- 7.3 There are several "Testing" phases before the voting equipment is ready for use at the advance poll or for Voting Day:
  - 7.3.1 **Testing the Vote Tabulators (Diagnostic Testing):** This test will ensure that the clock, LCD display, system memory, printer, serial port, auxiliary port, and ballot reader are all functioning properly.
  - 7.3.2 **Testing Memory Cards:** This will test every memory card to ensure it is not defective.

7.3.3 **Testing Ballots:** Once the ballots have been printed and received from the printing house, a test deck must be prepared and tested on each machine. A test deck must include every type of ballot and be comprised of samples of blank ballots, under-voted ballots, overvoted ballots, and properly completed ballots.

#### 7.4 Procedure for Testing Ballots

7.4.1 The test shall be conducted as follows:

- i. assign a varying number of votes to a pre-audited group of ballots marked with the designated black ballot marking pen in designated area;
- ii. manually count each valid vote and record the results;
- iii. tabulate the pre-audited ballots using the vote tabulator;
- iv. compare the output of the tabulator with the pre-audited results.

### 8. Defective Machine

8.1 In the event that a vote tabulator shall be replaced, or a memory card must be replaced, the unit/card must be retested before it is put into operation. If a memory card is replaced, the card must be tested and the test deck of ballots shall be tested again, using the new pack.

### 9. Test Documentation

9.1 A complete record of all testing phases shall be retained. In the event that the competency of the voting equipment is questioned, all printouts, reports, and the test decks shall be retained for verification purposes. The Clerk shall, at the completion of the test, retain the programs, test materials and ballots in the manner provided in the Act for the keeping of election records. The Clerk shall have access to the pre-audited group of ballots and other materials used in the programming of the vote tabulators.

### 10. Testing of Spare Vote Tabulators

10.1 Prior to Voting Day, any “spare” vote tabulators shall be tested along with the other vote tabulators, as described in the section “Testing of Vote Tabulators”.

## **11. Candidates/Scrutineers**

- 11.1 Candidates may appoint scrutineers in writing to represent them at the voting place.
- 11.2 Scrutineers shall show their written appointment to election officials, upon entering the Voting Location.
- 11.3 During the fifteen minutes before the opening of the voting location, the scrutineers who are entitled to be present in a voting location during voting hours are entitled to inspect the ballots and all other papers, forms and documents relating to the vote but not so as to delay the timely opening of the voting location.
- 11.4 Only one scrutineer for each certified candidate for each ballot box at the voting location may be present within the voting location at any time. If the candidate enters the voting location, the scrutineer shall leave.
- 11.5 The Designated Election Official shall provide a candidate/scrutineer, a printout of the results, signed by the DEO, if requested.
- 11.6 To protect the secrecy of the vote, candidates or scrutineers will not be able to examine ballots or to object to ballots as ballots are being fed into the vote tabulator. Candidates and Scrutineers must remain at their designated area during the taking of the Votes.

## **12. Procedure at the Voting Place**

- 12.1 With a vote tabulator at the voting place, the Designated Election Official shall, in the presence of all scrutineers and election officials present, cause the vote tabulator to print a copy of all totals in its memory pack before the opening of the voting place confirming “0” totals.
- 12.2 If the totals are zero for all candidates, by-laws and questions, the Designated Election Official shall ensure that the zero printout remains affixed to the vote tabulator until the results are printed by the vote tabulator after the close of the vote. All election officials and scrutineers may sign the zero totals report, if they so desire.
- 12.3 If the totals are not zero for all candidates, and questions/bylaws, the Designated Election Official or an Election Official shall immediately notify the Clerk and shall firstly, use a back-up memory pack. Should the back-up memory pack not total zero for all candidates, and questions/by-laws, the

conduct of the vote will be via the auxiliary back-up compartment of the ballot box until a back-up vote tabulator is brought to the voting location.

### **13. Procedures under Normal Circumstances**

13.1 Once the elector is verified and has completed voting, the Designated Election Official shall, in the presence of the Voter and without compromising the secrecy of the vote, verify the initials of the DRO/Election Official and then the Tabulator Clerk will insert the marked ballot into the feed area of the vote tabulator until the vote tabulator draws the ballot through.

### **14. Procedures in Extraordinary Circumstances**

14.1 Procedure in the event the tabulator cannot read the ballot:

- a) If a ballot is returned by the vote tabulator and the voter who delivered the ballot is present, the Designated Election Official shall ask the voter to examine the ballot and the Tabulator Clerk shall re-insert same in the tabulator. If the voter is intentionally casting a spoiled (blank/undervoted) ballot, the Designated Election Official will override and the ballot will feed through the vote tabulator.
- b) If the vote tabulator again rejects the ballot, the Designated Election Official shall mark the ballot "Cancelled", place the ballot in the "Cancelled/Spoiled" envelope, and deliver another ballot to the voter. The replacement ballot once marked will then be inserted into the ballot feed of the vote tabulator.
- c) If the elector who delivered the ballot is present but declines to accept a replacement ballot, the Designated Election Official shall mark the original ballot "Rejected" and insert the original ballot into the "Rejected" envelope.
- d) If the elector who delivered the ballot is not present, the Designated Election Official shall re-insert the ballot into the feed area of the vote tabulator.
- e) If the vote tabulator again rejects the ballot, the Designated Election Official shall mark the ballot "Cancelled". The Designated Election Official shall in full view of any candidates or scrutineers present, mark a new ballot with the same marks contained in the designated voting spaces on the original ballot, and the replacement ballot shall be clearly labeled on the back as "Replacement" and given a serial number which shall also be recorded on the "Cancelled" ballot. The Serial # sequence shall start with

R-001 – Designated Election Officials shall confer with each other by keeping track of any serial number assigned. The “Cancelled” ballot shall be inserted into the “Cancelled/Spoiled” envelope, and the Designated Election Official shall substitute the “Replacement” ballot for the “Cancelled” ballot and feed the “Replacement” ballot into the vote tabulator.

14.2 Procedure in the event a tabulator malfunctions during the voting process:

- a) In the event that a tabulator malfunctions during the voting process and the memory card is still functional, it may be necessary for an adjustment or replacement of the tabulator. If this is necessary, the preferred course of action is to substitute the faulty equipment with a spare vote tabulator.
- b) The following steps shall be performed in order to smoothly and quickly replace the faulty equipment and resume the regular voting activities:
  - i. **NOTE:** At no time shall an elector be prevented from casting their ballot.
  - ii. **ONLY** the Designated Election Official shall place voter ballots into the Auxiliary Compartment of the ballot box while the malfunctioning tabulator is replaced.
  - iii. The Designated Election Official shall remove the memory card from the malfunctioning tabulator and insert the memory card into the replacement tabulator.
  - iv. The Designated Election Official shall pack up the faulty equipment and set up the substitute vote tabulator. In an effort to expedite the replacement, the election official who delivered the replacement tabulator may assist in packing up the faulty equipment.
  - v. The Designated Election Official shall turn on the replacement tabulator and proceed to print a re-start tape to verify the number of ballots processed to that point. No results are displayed on this tape. The DEO shall then sign the re-start tape and leave the tape attached to the vote tabulator. The existing ballot box continues to be used to accept ballots that are to be fed through the replacement tabulator for the remainder of the day.
  - vi. At the closing of the poll, any ballots that were placed in the Auxiliary Compartment which were not tabulated will be fed through the replacement tabulator for counting. A candidate or their scrutineer are



permitted to be present for the processing of ballots that were placed in the Auxiliary Compartment. The DEO shall reseal the Auxiliary Compartment upon processing the last ballot.

14.2.1 In the event that a memory card malfunctions:

- a) the Designated Election Official shall immediately contact the Clerk.
- b) Once a replacement memory card has been provided, the Designated Election Official shall:
  - i. Verify that the vote tabulator and replacement memory card are operational, seal the memory card compartment, seal the ballot box containing any ballots which were previously processed or inserted into the Auxiliary Compartment during an “equipment swap” and set it aside in a secure location until the close of the poll.
  - ii. A new, empty ballot box is then used to accept ballots that are to be fed through the tabulator with the new memory card for the remainder of the poll.
  - iii. The Designated Election Official shall turn on the vote tabulator and proceed to print, verify and sign the zero totals report, as was done prior to the opening of the poll.
  - iv. The ballots in the original ballot box including the Auxiliary Compartment will be fed through the vote tabulator after the close of the poll. A candidate or their scrutineer are permitted to be present for the processing of the ballots that were in the original ballot box that needed to be sealed during a memory card malfunction.

## **15. Procedure for Closing the Voting Place for Advance Votes**

15.1 The designated election official shall, immediately after the close of advanced voting:

- i. look at the display on the vote tabulator and write down the number of ballots processed through the unit on the memory card envelope supplied;
- ii. unplug the vote tabulator, cut the seal on the memory card entry, remove the memory card, take the zero total printout, and place in the envelope

provided; seal the envelope. Candidates or Scrutineers may, if present place their seal on the envelope;

- iii. seal the ballot box; candidates or scrutineers may, if present place their seal on the ballot box; and
- iv. personally deliver the ballot box, memory card, vote tabulator and other election supplies to the Clerk or Designated Election Official.
- v. The Clerk shall place the ballot box and memory card in a secure location.

## **16. Procedure for Voting at Extendicare/KDH/TPR/ Other**

16.1 The Designated Election Official will set up in the locations that are provided by the institutions. Electronic Vote Tabulators will NOT be used. One ballot box will be used for all three institutions and for shut in voters.

- i. Voters will mark their ballots and feed into a ballot box marked **“Extendicare, KDH, TPR & Shut-Ins”**;
- ii. At the end of voting at Extendicare, a seal will be placed on the ballot box; candidates or scrutineers may, if present place their seal on the ballot box. The ballot box and all other election materials will be removed for set up at Kirkland & District Hospital.
- iii. Fifteen (15) minutes before the beginning of voting the seal(s) will be removed from the ballot box to allow ballots to be inserted. The seals will be removed with or without the presence of Candidates or scrutineers who have placed a seal on the box.
- iv. At the end of voting at Kirkland & District Hospital, a seal will be placed on the ballot box; candidates or scrutineers may, if present place their seal on the ballot box. The ballot box and all other election materials will be removed for set up Teck Pioneer Residence.
- v. Fifteen (15) minutes before the beginning of voting the seal(s) will be removed from the ballot box to allow ballots to be inserted. The seals will be removed with or without the presence of Candidates or scrutineers who have placed a seal on the box.
- vi. At the end of voting at Teck Pioneer Residence the ballot box will be delivered to the Clerk or Designated Election Official to be placed in

between both tabulators at the main Voting Location for tabulator processing.

- vii. In the case of eligible voters who are shut-in and housebound without a proxy, the Clerk shall, prior to end of voting at Teck Pioneer Residence, upon request, arrange for a Designated Election Official to visit the voter at their home with a ballot to mark. This ballot will be placed in a sealed envelope, delivered to the Voting Location, removed from the sealed envelope, the seal of the ballot box removed, the ballot inserted face down into the “**Extendicare/KDH/TPR & Shut-Ins**” ballot box and the ballot box be resealed.
  - a. Upon arriving to the Voting Place on Election Day, the Designated Election Official will ensure that the elector is struck from the Voters’ List, and that a remark for “Shut In” be placed beside their name.
- viii. After the close of poll on Voting Day, The seal will be broken on the ballot box marked “**Extendicare, KDH, TPR & Shut-Ins**”. The ballots in the marked “**Extendicare, KDH, TPR & Shut-Ins**” ballot box will be removed by the Designated Election Official and fed through Vote Tabulator 2 after the close of the poll (after 8 p.m. and the last elector in the Voting Location has cast their ballot). The ballot box that Tabulator 2 sits on may then be sealed upon the passing of the last ballot from the “**Extendicare, KDH, TPR & Shut-Ins**” ballot box. Candidates or scrutineers may, if present, place their seal on the ballot box.

## **17. Advance Voting Results**

- 17.1 The total of the votes cast at the advance vote shall not be made available until after 8 p.m. on Voting Day.
- 17.2 For this purpose, the Designated Election Official shall attend at the location designated by the Clerk to complete the voting place final statement and provide the results to candidates or scrutineers present.
- 17.3 The same procedure for “Closing the Voting Place on Voting Day” shall be followed.

## **18. Procedure For Closing The Voting Place On Voting Day**

- 18.1 The Designated Election Official shall, after the close of the voting ensure all ballots have been processed:

- i. Look at the display on the vote tabulator and write down the number of ballots processed through the unit. The number will later be recorded on the statement form;
- ii. Secure the vote tabulator against receiving any more ballots by invoking the "Close Poll" procedure for the tabulator;
- iii. Obtain a printed record of vote results given for each candidate and, if applicable, the votes given for and against a by-law or question;
- iv. Sign the certificate portion of the printed record along with any scrutineers or candidates who are present and wish to sign;
- v. Remove the Zero Totals Report and attached printed record of vote results from the vote tabulator and place them in the statement envelope;
- vi. Provide additional copies of printouts for any scrutineer upon request;
- vii. Turn off the Vote Tabulator;
- viii. Seal the ballot box to ensure the box cannot be reopened without breaking the seal and to cover the ballot slot;
- ix. The Designated Election Official shall deliver the transfer carrying case, all ballot boxes, voting compartments, the vote tabulator with memory card intact and the return envelope to the Clerk at the Municipal Office.
- x. If a vote tabulator has been used to tabulate votes cast in a voting place but the tabulation of the votes cannot be completed because the vote tabulator is not operating or cannot be made to operate within a reasonable time following the close of the voting, the Designated Election Official shall, after the close of the voting and after determining the tabulation cannot be completed,
- xi. Seal the ballot box in such a manner that it cannot be opened or any ballots be deposited in it without breaking the seal;
  - a) secure the vote tabulator against receiving any more ballots;
  - b) personally deliver the ballot box, all supplies, and vote tabulator to a place designated by the Clerk where a back-up vote tabulator is located;

- c) follow the procedures set out in Retesting of Vote Tabulators section to ensure that the totals of the back-up vote tabulator are zero for all candidates, by-laws and questions;
- d) insert all the ballots from the ballot box into the back-up vote tabulator, and;
- e) follow the procedures for Closing the Voting Place on Voting Day.

## **19. No Vote Tabulator Provided**

- 19.1 If a vote tabulator has not been provided in a voting place, the Designated Election Official shall immediately after the close of voting:
- i. deliver all materials, and ballot boxes to the location designated by the Clerk;
  - ii. the Clerk, or a person designated by the Clerk, shall at the close of the vote, feed the ballots (from the voting location(s) where voting equipment was not used) into a vote tabulator and into the ballot box.
  - iii. The “Procedure For Closing The Voting Place On Voting Day” shall be followed.

## **20. General**

- 20.1 If, at the close of the voting, the Clerk is of the opinion that it is impracticable to count the votes with the vote tabulators, he or she may direct that all the votes cast in the election shall be counted manually following as far as practicable the provisions of the Act governing the counting of votes.
- 20.2 The Clerk shall, at the completion of the count, retain the programs, memory packs, test materials and ballots in the same manner as is provided for in the Act for the keeping of election records.
- 20.3 The Clerk shall retain and may have access to the pre-audited group of ballots and other materials used in the programming of vote tabulators.
- 20.4 The Clerk shall not alter or make changes to the materials.

## **21. Recounts**

- 21.1 If a recount of votes is held, the votes shall be counted in the same manner as the votes were counted on Voting Day.

- 21.2 All vote tabulators to be used in the recount shall be tested before the recount in the manner described in the “Testing of the Vote Tabulator”.
- 21.3 The Clerk shall attend the recount and bring the ballot boxes, vote tabulators, statement envelopes and all documents that, in the opinion of the Clerk, are relevant to the recount.
- 21.4 All Candidates impacted by the recount must attend the recount.
- 21.5 The Procedures entitled “2022 Municipal Election Procedures, Procedure for Voting with the Use of Vote Tabulators”, and “Recount Procedures with the Use of Vote Tabulators” will be adhered to.