PROCEDURE FOR USE OF VOTE TABULATORS
BY-ELECTION 2024

DEFINITIONS:

1. In this procedure:

   "Act" means the *Municipal Elections Act, 1996,* S.O. 1996, c. 32, Sched., as amended.

   "Memory Card" means a cartridge that is a removable, battery-sustained memory where all tabulated totals are stored with the subdivision program.

   "Secrecy Folder" means an apparatus in which a ballot can be placed so as to conceal the names of the candidates and the marks upon the face of the ballot and so as to expose the initials of the deputy returning officer.

   "Vote Tabulator" means an apparatus that optically scans a specified area on the ballots to read the votes and tabulate the results.

2. (1) This procedure applies to an election conducted by a municipality that has passed a by-law under Section 42 of the Act authorizing the use of vote tabulators at voting places.

   (2) Where this procedure does not provide for any matter, an election to which this procedure applies shall be conducted in accordance with the principles of the Municipal Elections Act, 1996.

ELECTION OFFICIALS:

3. The Clerk may appoint election officials for the purposes of this procedure and may designate their titles and duties.

VOTING SUBDIVISIONS:

4. The Clerk may divide the municipality into voting subdivisions known as Polls.

BALLOTS:

5. (1) There shall appear on the ballot to the right of each candidate's name a space suitable for the marking of the ballot in the shape of an oval.

   (2) Subsection (1) applies with necessary modifications to ballots for by-laws and questions.

VOTE TABULATORS:
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6. (1) The Clerk shall provide a vote tabulator at no less than 50 percent of the voting places.

   (2) Where the Clerk has not provided a vote tabulator at a voting place, the Clerk shall designate a place to which the ballots shall be taken after the close of the voting to be tabulated by a vote tabulator.

PROGRAMMING OF VOTE TABULATOR:
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7. (1) The vote tabulator shall be programmed so that a printed record of the number of votes cast for each candidate and with respect to each by-law and question can be produced.

   (2) The vote tabulator shall be programmed so that the following ballots are returned to the Tabulator Supervisor:

   (A) a ballot without votes in any of the specified voting spaces as determined by a vote tabulator (message will read "**BLANK VOTED**")

   (B) a ballot that is damaged or defective or has been marked in such a way that it cannot be properly processed by a vote tabulator (message will read "**BALLOT NOT READ**")

   (C) a ballot that has one or more over voted race (message will read "**OVER VOTED**").

   (D) a ballot that jams on entry to or exit from the ballot reader with the message "**BALLOT NOT READ PLEASE RE-INSERT**" or "**COUNTED BALLOT JAMMED IN READER**." The Tabulator Supervisor must follow the appropriate instruction. Do not re-insert a ballot that has been counted. Clear a read ballot from the reader and put it in the ballot box. Maintain the secrecy of the vote at all times.

   (E) a ballot that does not match the memory card – example: ballot from wrong ward trying to be processed through other wards machine (message will read **"INVALID BALLOT SEE OFFICIAL"**)

TESTING OF VOTE TABULATORS:
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8. (1) Prior to voting day, the Clerk or designate shall test the vote tabulators to ensure that they will accurately count the votes cast for all candidates, by-laws and questions.

   (2) When testing the vote tabulator, 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 vote tabulator.

9.   (1)   The test shall be conducted by,

(A)   loading the memory cards into the vote tabulators,

(B)   tabulating a pre-audited group of ballots including ballots that fall into each of the categories of ballots described in clause 7 (2) **(A) (B) & (C)** and ballots on which are recorded a predetermined number of valid votes for each candidate and on each by-law and question; and,

(C)   comparing the output of the tabulation against the pre-audited results.

(2)   The Clerk or designate shall, at the successful completion of the test, seal the memory card to the vote tabulator.

(3)   If the Clerk or designate detects any error in the test, the cause of the error shall be ascertained and corrected and the test repeated until an errorless count is made.

(4)   (A)   The Clerk shall retain and may have access to the pre-audited group of ballots referred to in clause 9 (1) (b) and other materials used in the programming of the vote tabulators.

(B)   The Clerk shall not alter or make changes to the materials referred to in subsection 9(1)(b)

PROCEDURE AT THE VOTING PLACE:

10.   (1)   If a vote tabulator is to be used in a voting place, the Tabulator Supervisor or election official shall, in the presence of all scrutineers (if any), cause the vote tabulator to print a copy of all totals in its memory card one hour or less before the opening of the voting.

(2)   If the totals are zero for all candidates, by-laws and questions, the Tabulator Supervisor or 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.

(3)   If the totals are not zero for all candidates, by-laws and questions, the Tabulator Supervisor or election official shall, immediately notify the Clerk and shall conduct the vote using the back-up compartment of the ballot box until the vote tabulator is made operational or the Clerk provides a back-up tabulator at the voting location.

11.   The Clerk may assign a Poll Clerk, in addition to the Deputy Returning Officer (DRO), to initial a ballot before the ballot is delivered to a voter.

12.   (1)   The DRO or a Poll Clerk shall provide a secrecy folder to each person to whom an initialed ballot is provided at the same time as the ballot is provided.

       (2)   Upon receiving the ballot and secrecy folder, the voter shall:

              (A)   proceed to the voting compartment; and,

              (B)   using the ballot-marking pen provided, vote by filling in the oval to the right of the candidate(s) of their choice or for the answer to any by-law or question.

       (3)   After marking the ballot in the voting compartment, the voter shall:

              (A)   insert the ballot into the secrecy folder

              (B)   leave the compartment without delay; and,

              (C)   deliver the secrecy folder containing the ballot to the Tabulator Supervisor.

       (4)   The Tabulator Supervisor shall, in the presence of the voter and without removing the ballot from the secrecy folder, verify the initials of the deputy returning officer, and

              (A)   if a vote tabulator is available in the voting place, insert the secrecy folder containing the ballot, with the initials of the DRO face down, into the feed area of the vote tabulator until the voter tabulator draws the ballot from the secrecy folder in full view of the voter; or,

              (B)   if a vote tabulator is not available in the voting place, insert the ballot, with the initials of the DRO face down, directly into the **back-up ballot box** from the secrecy folder in full view of the voter.

       (5)   If a ballot described in subsection 7 (2) (i.e. **unvoted, damaged, over voted, invalid** or **defective** ballot) is returned by the vote tabulator and the voter who delivered the ballot is present, the Tabulator Supervisor shall:

              (A)   in the case of an **unvoted** ballot, advise the elector that they have the option to return to the voting area to complete the ballot;

              (B)   in the case of a **damaged, invalid or defective** ballot direct the elector back to the DRO and the DRO shall mark the ballot "**cancelled**", place the ballot in the "cancelled ballot" envelope and provide another ballot to the voter.

              (C)   In the case of an **over voted** race, advise the elector that he/she has the option of obtaining another ballot and returning to the voting area to complete the new ballot (the old ballot shall have the word "**cancelled**" written on it by the Tabulator Supervisor and shall be returned to the DRO who is issuing the ballot).

(6)   If a ballot described in subsection 7 (2) is returned by the vote tabulator and the voter who delivered the ballot is present and declines to accept another ballot, the Tabulator Supervisor shall override the ballot so that the tabulator accepts the ballot. If the ballot cannot be overridden, the Tabulator Supervisor will mark the ballot "**declined**" and return it to the DRO who issued it.

(7)   If a ballot described in subsection 7 (2) is returned by the vote tabulator and the voter who delivered the ballot is not present, the Tabulator Supervisor shall mark the ballot "**defective**" and insert the ballot into the back-up compartment of the ballot box. After the close of the voting, and in conjunction with the DRO:

(A)   where there are no marks in the specified voting spaces, the Tabulator Supervisor will override the ballot for acceptance by the tabulator. Should the tabulator still fail to accept the blank ballot in override mode, the Tabulator Supervisor shall mark the blank ballot "**declined**" and return it to the DRO who assigned it for accounting purposes.

(B)   where there are marks in the specified voting spaces,

(1)   The DRO will prepare a replacement ballot for the defective ballot by duplicating the marks shown on the defective ballot to the replacement ballot. The replacement ballot shall be clearly labeled "**replacement**" and given a number which number shall also be recorded on the defective ballot,

(2)   substitute the replacement ballot for the defective ballot and tabulate it, and

(3)   for accounting purposes, the DRO who provided the replacement ballot will place the defective ballot into the appropriate envelope.

Procedure in the Event of Equipment Failure During Voting

13.   In the event that a vote tabulator malfunctions during the voting process, the Clerk will, if possible, substitute the faulty equipment with another "spare" vote tabulator. The following steps are to be performed in order to smoothly and quickly replace the faulty equipment and resume regular voting activities:

(a)   Until the substitute equipment is in place, the Tabulator Supervisor shall manually insert ballots into the back-up ballot box as described in subsection 12(4)(b). **At no time should an elector be prevented from casting their ballot.**

(b)   The Tabulator Supervisor 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.

(c)   The Tabulator Supervisor shall turn on the replacement vote tabulator and print, verify and sign the zero totals report, as was done prior to the opening of the poll.

(d)   Once it is verified that the replacement vote tabulator is operational, the ballot box containing any ballots which were processed through the faulty equipment should be sealed and set aside in a secure location until the close of the poll. Ballots which were manually inserted into the back-up ballot box marked "back-up ballot box" during the "equipment malfunction/swap" are to be sealed and set aside in a secure location until the close of the poll. These manual ballots will be fed through the vote tabulator after the close of the poll.

(e)   A new, empty ballot box is used to accept ballots that are fed through the replacement equipment for the remainder of the day.

(f)   The procedures set out in Section 14(1) shall be followed once the ballots referred to in subsection 13(d) have been fed through the vote tabulator.

(g)   If substitute equipment is not available, ballots should be manually inserted into the ballot box throughout the day as described in subsection 12(4)(b) and at the close of the Poll,

(i)   the Tabulator Supervisor or election assistant shall follow with necessary modifications the procedures in clauses 14(2) (a), (c) and (d); and

(ii)   the Clerk, or a person designated by the Clerk, shall with necessary modifications follow the procedures in clauses 14(2) (e) to (g).

PROCEDURE FOR CLOSING THE VOTING PLACE ON VOTING DAY

14.   (1)   If a vote tabulator has been used to tabulate the votes cast in a voting place, the Tabulator Supervisor shall, after the close of the voting, check the back-up compartment of the ballot box for ballots to ensure all votes are tabulated. Once all votes are tabulated including those mentioned in Section 12 (7), the Tabulator Supervisor shall:

(A)   secure the vote tabulator against receiving any more ballots by inserting the voter ender card;

(B)   obtain a printed record of the votes given for each candidate and, if applicable, the votes given for and against a by-law or question;

(C)   sign the certificate portion of the printed record along with the DRO and any scrutineers who are present and wish to sign and give it to the DRO;

(D)   remove the printed record from the vote tabulator and place it in the statement envelope;

(E)   telephone the results to the Clerk or designate at the Township office, 318 Canborough Street, Smithville (905) 957-3346;

(F)   **only after results are called in,** provide printouts for any scrutineers upon request;

(G) under supervision of the DRO, collect all completed DRO
Statements of Ballot Account for return to the Clerk or designate
which include:
(1) ballots received from the Clerk;
(2) ballots issued;
(3) cancelled ballots;
(4) declined ballots;
(5) defective ballots;
(6) unused ballots;

(H) provide the DRO with the number of ballots counted by the vote
tabulator;

(I) the DRO will place the original copy of the DRO's Statements in the
statements envelope as well as the Vote Summary Totals Tape
from the Tabulator;

(J) place a duplicate copy of the statements and in the ballot box;

(K) place in separate envelopes:
(1) cancelled and declined ballots;
(2) defective ballots;
(3) unused ballots;

(L) seal the envelopes;

(M) excluding the statement envelope, place all other sealed envelopes
in the ballot box and seal the ballot box; and,

(N) the Tabulator Supervisor shall personally deliver the ballot box,
vote tabulator and statement envelope and remaining supplies to
the Office of the Clerk or to such other place as the Clerk has
directed, in writing.

Procedures in the event of equipment failure at the Close of Poll

(2) 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 Tabulator Supervisor shall, after the
close of the voting and after determining the tabulation cannot be
completed:

(A) seal the ballot box in such a manner that it cannot be opened or any
ballots be deposited in it without breaking a seal;

(B)   secure the vote tabulator against receiving any more ballots;

(C)   place all supplies and all cancelled, declined, defective and unused ballots in the transfer carrier/box provided and seal it;

(D)   personally deliver the ballot box, transfer carrier/box and vote tabulator to a place designated by the Clerk where a back-up vote tabulator is located;

(E)   the Clerk or designate shall then follow the procedures set out in Section 10 to ensure that the totals of the back-up vote tabulator are zero for all candidates, by-laws and questions;

(F)   insert all the ballots from the ballot box and back-up ballot box into the back-up vote tabulator; and,

(G)   follow the procedures in subsection 14(1).

15.   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, they may direct that all the votes cast in the election be counted manually following as far as practicable the provisions of the Act governing the counting of votes.

16.   The Clerk shall, at the completion of the count, retain the programs, memory cards, test materials and ballots in the same manner as is provided for in the Act for the keeping of ballots.

ADVANCE VOTING AND EARLY CLOSING OF VOTING PLACES:

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17.   (1)   The total of the votes at an advance voting location or at a voting location that closes early under subsection 46 (3) of the Act shall not be printed and the procedures under section 14 (a) to (f) shall not be followed until after 8:00 p.m. on the voting day.

(2)   The advance voting locations will be considered as one continuous voting location for final tabulation purposes. The Clerk will provide adequate security and safekeeping of the tabulator between advance poll dates.

(3)   In the event that the vote tabulator used for the advance polls is required as a backup machine on voting day because another vote tabulator is not functioning or available, the tape and memory card for the advance poll will be removed from the vote tabulator by the Clerk or designate and the Clerk or designate will provide adequate security and safekeeping of the tape and memory card until the close of poll on voting day, at which time the tape and memory card containing the advance vote tabulations will be placed back in the vote tabulator and the required procedures under Section 14 will be followed.

RECOUNTS:

18.   Subject to the order of a Judge under Section 58 of the Act, if a recount of votes is held, the votes shall be recounted in the same manner as the votes were counted on voting day.

19.   (1)   A vote tabulator shall be tested before the recount in the manner described in sections 8 and 9 so far as practicable.

       (2)   The Recount Officer shall attend the recount and bring the ballot boxes, vote tabulators, statement envelopes and all documents that, in the opinion of the Recount Officer, are relevant to the recount.

       (3)   If a vote tabulator is used for a recount, the recount is limited to the ballots tabulated by a vote tabulator on voting day.

       (4)   Subject to an order of a Judge under Subsection 60(3) of the Act, if a vote tabulator is used for a recount, those persons referred to in paragraph 2, 3 or 4 of Subsections 61(1) or 61(2) will be unable to examine the ballots or to dispute the validity of a ballot or the counting of votes in a ballot as provided for in Subsection 61(5) of the Act, as the ballots are being fed into the vote tabulators by the Election Officials.

20.   (1)   For the purposes of subsection 20(2)(A), "results of the election" means,

              (A)   in the case of an election to an office, which candidate or candidates have been declared elected;

              (B)   in the case of an election to obtain the assent of the voters on a by-law, whether the affirmative or negative received the greatest number of votes; and,

              (C)   in the case of a question submitted to the voters, which answer received the greatest number of votes.

       (2)   The result of a recount using a vote tabulator is final and no further recount shall take place, unless,

              (A)   the recount changes the results of the election, as declared by the Clerk under subsection 55 of the Act; or,

              (B)   a Judge makes an Order under Section 58 of the Act requiring a recount to be held.

(3)   If clause 20(2)(b) applies, the Recount Officer shall conduct a manual recount following as far as practicable the provisions of the Act governing the counting of votes and, subject to a Judge's order, shall recount only those voting subdivisions where the count at the recount differed from the count on voting day.

(4)   The manual recount shall be a recount of all the original ballots received from the voters in those voting subdivisions.