

# **2010 MUNICIPAL ELECTION**

## **RULES AND PROCEDURES**

### **FOR THE USE OF VOTE TABULATORS**

#### **IN THE CITY OF SARNIA**

## **DEFINITIONS**

1. In this procedure,

“**Act**” means the Municipal Elections Act, 1996, S.O., 1996, c. 32;

“**Ballot-Marking Pen**” means the designated ballot-marking pen provided by a Deputy Returning Officer, Poll Clerk or Tabulator Operator for the use of a voter to mark the ballot;

“**Memory Pack**” means a cartridge that is a removable, battery-sustained memory where all tabulated totals are stored;

“**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, but does expose the initials of the Deputy Returning Officer;

“**Valid Mark**” means a mark made in the designated space to the right of the candidate’s name using the black ballot-marking pen provided by 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.

## **APPLICATION OF PROCEDURE**

2. (1) This procedure applies to an election conducted by the City of Sarnia which has passed a by-law under Section 42 of the Municipal Elections Act, 1996 authorizing the use of vote tabulators at the 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. (1) The City Clerk may appoint Election Officials for the purpose of this procedure and may designate their titles and duties.

## **VOTING SUBDIVISIONS**

4. (1) The City Clerk may divide the municipality into voting subdivisions.

## **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.
- (2) An oval shape will appear on the ballot to the right of the candidates' names.
- (3) Subsections(1)and(2) apply with necessary modifications to ballots for by-laws and questions.

## **VOTE TABULATORS**

6. (1) Where the City Clerk has not provided a vote tabulator at a voting place, the City 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 THE VOTE TABULATOR**

7. (1) The vote tabulator shall be programmed so that a printed record of the number of votes cast for each candidate can be produced.
- (2) The vote tabulator shall be programmed so that the following ballots are returned to the Tabulator Operator as described:
  - (a) A ballot without votes in any of the specified voting spaces, as determined by a vote tabulator, with the message "Not Voted".
  - (b) A ballot with more designated voting spaces marked for an office than the voter is entitled to vote for, as determined by a vote tabulator, with the message "Over Voted".
  - (c) 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 with the message "Ballot Misread".

## **TESTING OF VOTE TABULATORS**

8. (1) Prior to voting day, the City Clerk shall test the vote tabulators to ensure that they will accurately count the votes cast for all candidates.
- (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 programmes 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 packs 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 Subsection 7(2) and ballots on which are recorded a predetermined number of valid votes for each candidate; and
  - (c) comparing the output of the tabulation against the pre-audited results.
- (2) If the City Clerk 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.

## **CANDIDATES/SCRUTINEERS**

10. (1) Candidates may appoint scrutineers in writing to represent him or her at the voting place.
- (2) Scrutineers must show their written appointment to the Tabulator Operator or any Deputy Returning Officer in the voting place, upon request.
- (3) A candidate may have a scrutineer at each ballot issuing location and each vote tabulator at the voting place.
- (4) To protect the secrecy of the vote, scrutineers will be unable to examine the ballots or to object to ballots or to the counting of votes in a ballot as provided for in clauses 47(5)(e) and 47(5)(f) and Subsection 54(3) of the Act as the ballots are being fed into the vote tabulator by the Tabulator Operator.
- (5) For the purposes of Subsections (3) and (4), candidates who enter the voting place are considered to be scrutineers.

**PROCEDURE AT THE VOTING PLACE**

11. (1) If a vote tabulator is to be used in a voting place, the Tabulator Operator shall, in the presence of all Deputy Returning Officers in the voting place and any candidates or scrutineers present, cause the vote tabulator to print a copy of all totals in its memory pack one hour or less before the opening of the voting place confirming “0” totals.
- (2) If the totals are zero for all candidates, the Tabulator Operator 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, the Tabulator Operator shall immediately notify the City Clerk and shall conduct the vote using the back-up compartment of the ballot box until the vote tabulator is made operational or the City Clerk provides a back-up vote tabulator to the voting location.
12. (1) The Deputy Returning Officer, Poll Clerk or other election assistant shall, at the same time as the ballot is delivered, provide a secrecy folder to each voter
- (2) Upon receiving the ballot, 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 his/her choice.
- (3) After marking the ballot in the voting compartment, the voter shall;
  - (a) insert the ballot into the secrecy folder with the Deputy Returning Officer’s initials showing;
  - (b) leave the compartment without delay; and
  - (c) deliver the secrecy folder containing the ballot to the Tabulator Operator stationed at the vote tabulator if a vote tabulator is available in the voting place. If a vote tabulator is not available in the voting place the ballot is returned in the secrecy folder to the Deputy Returning Officer who issued the ballot.

**PROCEDURE AT THE VOTING PLACE** (Cont'd)

- (4) (a) If a vote tabulator is available in the voting place, the Tabulator Operator shall, in the presence of the voter and without removing the ballot from the secrecy folder, insert the secrecy folder containing the ballot into the feed area of the vote tabulator until the vote tabulator draws the ballot from the secrecy folder.
- (b) If a vote tabulator is not available in the voting place, the Deputy Returning Officer 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 insert the ballot directly into the ballot box from the secrecy folder.
- (5) If a vote tabulator is available in the voting place but fails to operation, the Tabulator Operator shall,
  - (a) insert the ballot into the back-up compartment of the ballot box; and
  - (b) subject to Subsection 14(3), insert the ballots into the feed area of the vote tabulator after the close of the voting.
- (6) If a ballot described in clause 7(2)(a) (“not voted”) is returned by the vote tabulator and the voter who delivered the ballot is still present, the Tabulator Operator shall advise the voter that the tabulator does not detect any votes in the designated voting spaces. The ballot may be returned to the voter for marking within the designated spaces, or, if the voter prefers, the Deputy Returning Officer shall mark the ballot “cancelled”, place the ballot in the cancelled ballot envelope, deliver another ballot to the voter and instruct the voter how to properly mark the ballot.
- (7) If a ballot described in clause 7(2)(b) (“over voted”) is returned by the vote tabulator and the voter who delivered the ballot is still present, the Tabulator Operator shall advise the voter that the tabulator detects too many votes for one or more of the offices and the Deputy Returning Officer shall mark the ballot “cancelled”, place the ballot in the cancelled ballot envelope, deliver another ballot to the voter and instruct the voter how to properly mark the ballot.
- (8) If a ballot described in clause 7(2)(c) (“ballot misread”) is returned by the vote tabulator and the voter who delivered the ballot is still present, the Tabulator Operator shall re-insert the ballot into the feed area of the vote tabulator. If the vote tabulator again rejects the ballot, the Tabulator Operator shall advise the voter the tabulator is misreading the ballot and the Deputy Returning Officer shall mark the ballot “cancelled”, place the ballot in the cancelled ballot envelope, and deliver another ballot to the voter.

**PROCEDURE AT THE VOTING PLACE** (Cont'd)

12. (9) If a ballot described in clause 7(2) is returned by the vote tabulator and the voter who delivered the ballot is still present, and declines to accept another ballot, the Tabulator Operator shall, without showing the face of the ballot to anyone, use the vote tabulator override button and insert the ballot into the feed area of the vote tabulator until the vote tabulator draws the ballot from the secrecy folder.
  
- (10) If a ballot described in Clause 7(2) is returned by the vote tabulator and the voter who delivered the ballot is not present, or is present and indicates that this is the way they wish to vote, the Tabulator Operator shall,
  - (a) where there are no marks in the designated voting spaces (“not voted”), use the vote tabulator override button and insert the ballot into the feed area of the vote tabulator until the vote tabulator draws the ballot from the secrecy folder;
  
  - (b) where more designated voting spaces are marked for an office than the voter is entitled to vote (“over voted”), use the tabulator override button and insert the ballot into the feed area of the vote tabulator until the vote tabulator draws the ballot from the secrecy folder,
  
  - (c) where there are marks in the designated voting spaces but the tabulator cannot process the ballot (“ballot misread”),
    - (i) mark the ballot “defective” and insert the ballot into the back-up compartment of the ballot box,
  
    - (ii) after the close of the voting, prepare a replacement ballot in the view of the Affidavits Clerk or one of the Poll Clerks in the voting place, and any candidates or scrutineers present by marking a new ballot with the same marks contained in the designated voting spaces on the defective ballot, and the replacement ballot shall be clearly labeled “replacement” and given a serial number which shall also be recorded on the defective ballot.
  
    - (iii) substitute the replacement ballot for the defective ballot and feed the replacement ballot into the vote tabulator. If the vote tabulator still will not process the ballot (i.e. the original marks made by the voter and duplicated by the Tabulator Operator are incapable of being processed by the tabulator), use the tabulator override button and insert the ballot into the feed area of the vote tabulator, and
  
    - (iv) return the defective ballot to the Deputy Returning Officer whose initials appear on the back of the defective ballot, to be placed in a defective ballot envelope (if the vote tabulator was not able to process the replacement ballot, this fact shall be recorded on the defective ballot).

**PROCEDURE FOR CLOSING THE VOTING PLACE DURING ADVANCE VOTING**

13. (1) If a vote tabulator is used for Advance Voting, the procedures contained in this section shall be followed by the Tabulator Operator to close the Advance Voting place.
- (2) The Tabulator Operator shall, after the close of each day of Advance Voting, check the back-up compartment of the ballot box for ballots to ensure all ballots have been processed, and shall immediately:
  - (a) secure the vote tabulator against receiving any more ballots;
  - (b) note the total number of ballots processed by the tabulator on the form provided for that purpose by the City Clerk, and sign the form. All Deputy Returning Officers working at the Advance Vote are to sign the form at the end of each day of voting.
  - (c) The tabulator, sealed ballot box(es), and all supplies are to be turned over to the City Clerk or her designate for safekeeping.
  - (d) On the next day of Advance Voting, when the tabulator is turned on, the Tabulator Operator and all Deputy Returning Officers in the voting place shall, and any scrutineers or candidates present in the voting place may, verify the number of ballots processed according to the tabulator is the same as the number of ballots processed at the close of the previous day of Advance Voting (see 13(2)(b))
- (3) The Deputy Returning Officer shall, at the end of each day's Advance Vote:
  - (a) complete, and submit to the City Clerk or her designate, a Ballot Account in duplicate for that days Advance Voting of the number of
    - i) ballots received from the Clerk;
    - ii) ballots counted by the vote tabulator (used ballots);
    - iii) cancelled ballots;
    - iv) declined ballots ;
    - v) defective ballots;
    - vi) unused ballots returned to the Clerk
  - (b) place the original copy of the Ballot Account in an envelope to be delivered to the Clerk
  - (c) place the duplicate copy of the Ballot Account in the ballot box

**PROCEDURE FOR CLOSING THE VOTING PLACE DURING ADVANCE VOTING** (Cont'd)

- 13. (3) (d) place in separate envelopes
  - i) cancelled ballots;
  - ii) declined ballots;
  - iii) defective ballots;
  - iv) unused ballots;
- (e) seal the envelopes and return to the Clerk

**PROCEDURES 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 Operator shall, after the close of voting, check the back-up compartment of the ballot box for ballots to ensure all votes are tabulated, and shall immediately,
  - (a) secure the vote tabulator against receiving any more ballots;
  - (b) obtain the printed results from the vote tabulator for each candidate;
  - (c) sign the printed results from the vote tabulator with the zero total attached, along with all Deputy Returning Officer's stationed at the voting place and any candidates or scrutineers who are present and who wish to sign the printed results;
  - (d) place the printed results from the vote tabulator as signed by the Tabulator Operator and Deputy Returning Officers in the tabulator results envelope;
  - (e) print a duplicate copy of the results from the vote tabulator for each of the Deputy Returning Officers in the voting place to include in the envelope with their Ballot Account;
  - (f) transmit tabulator results by modem to City Hall;
  - (g) get a duplicate copy of the Ballot Account from each Deputy Returning Officer at the voting location to put into the ballot box and then seal the ballot box;
  - (h) return tabulator, sealed ballot box(es), envelope containing tabulation results and all supplies to the City Clerk.

**PROCEDURES FOR CLOSING THE VOTING PLACE ON VOTING DAY**

(Cont'd)

14. (2) The Deputy Returning Officer shall:
  - (a) sign the original printed results from the vote tabulator;
  - (b) retain a duplicate copy of the printed results from the vote tabulator for inclusion in the Ballot Account envelope;
  - (c) make out a Ballot Account in duplicate of the number of:
    - i) ballots received from the Clerk
    - ii) ballots counted by the vote tabulator (used ballots)
    - iii) cancelled ballots
    - iv) declined ballots
    - v) defective ballots, and
    - vi) unused ballots
  - (d) place the original copy of the Ballot Account into the Ballot Account envelope;
  - (e) give the Tabulator Operator a duplicate copy of the Ballot Account to put into the ballot box before it is sealed;
  - (f) place in separate envelopes:
    - i) cancelled ballots
    - ii) declined ballots
    - iii) defective ballots, and
    - iv) unused ballots
  - (g) seal the envelopes;
  - (h) place all remaining supplies in the box provided for that purpose, keeping the Ballot Account envelope out for submission to the Clerk;
  - (i) personally deliver all materials and supplies and Ballot Account envelope to the Clerk.

**PROCEDURES FOR CLOSING THE VOTING PLACE ON VOTING DAY**

(Cont'd)

14. (3) 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 amount of time following the close of voting, the Tabulator Operator 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 the seal;
  - (b) secure the vote tabulator against receiving any more ballots;
  - (c) personally deliver the ballot box(es), vote tabulator and supplies to a place designated by the Clerk where a back-up vote tabulator is located;
  - (d) follow the procedures set out in Section 11 to ensure that the totals of the back-up vote tabulator are zero for all candidates;
  - (e) insert all the ballots from the ballot box into the back-up vote tabulator, and
  - (f) follow the procedures in Subsection 14(1).
- (4) If a vote tabulator has not been provided, or, if provided, has not been used to tabulate votes cast in a voting place:
  - (a) the Deputy Returning Officer shall, immediately after the close of voting, follow with necessary modifications the procedures in clauses 14(2)(a), (c), (d), (f), (g), (h), and (i); and
  - (b) the Clerk, or a person designated by the Clerk, shall with necessary modifications follow the procedures in clauses 14(2)(b).
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, 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.
16. 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.

**PROCEDURES FOR CLOSING THE VOTING PLACE ON VOTING DAY**

(Cont'd)

- 17. (1) 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.
- (2) The Clerk shall not alter or make changes to the materials referred to in Subsection (1).

**ADVANCE VOTING AND EARLY CLOSING OF VOTING PLACES**

- 18. 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 shall not be followed until after 8 p.m. on Voting Day when the Tabulator Operator and Deputy Returning Officer shall report to a location to be determined by the Clerk.

**RECOUNTS**

- 19. Subject to the order of a judge under Subsection 60(3) of the Act, if a recount of votes is held, the votes shall be counted in the same manner as the votes were counted on voting day.
- 20. (1) A vote tabulator shall be tested before the recount in the manner described in Section 9.
- (2) The Clerk shall attend the recount and bring the supply carriers, ballot transfer containers, vote tabulators, statement envelopes and all documents that, in the opinion of the Clerk, 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 during the advance voting and 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 box as provided for in Subsection 61(5) of the Act, as the ballots are being fed into the vote tabulators.

These are the certified Rules and Procedures for the use of vote tabulators in the City of Sarnia

June 1, 2010

\_\_\_\_\_  
Date Certified



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Returning Officer