



**City of Port Colborne
Municipal Election 2018 – Procedure Manual**

Subject: Procedure For Use of Vote Tabulators

Section: Clerk's Division

Contact: City Clerk

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Policies and Procedures/Vote Tab Procedures

Definitions

1. In this procedure,

“Act” means the *Municipal Elections Act, 1996*, as amended.

“Memory pack” 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 (DRO).

“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 Port Colborne. The City 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 Super 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 a circular or oval shape.
(2) Subsection (1) applies with necessary modification to ballots for by-laws and questions.

Vote Tabulators

6. (1) The Clerk shall designate voting places where vote tabulator(s) will be located.
(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 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 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 Automated Voting Tabulator Deputy Returning Officer (AVT DRO) as described:
 - (a) A ballot without votes in any of the specified voting spaces as determined by the vote tabulator with the message "**BLANK VOTED CARD SEE OFFICIAL**".
 - (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 with the message "**INVALID BALLOT SEE OFFICIAL**".
 - (c) A ballot with more votes than permitted for an office as determined by the vote tabulator with the message "**OVER VOTED RACE**".
 - (d) A ballot that jams on entry to or exit from the ballot reader with the

message “**BALLOT NOT READ PLEASE RE-INSERT**” or “**RETURNED BALLOT JAMMED IN READER**” or “**COUNTED BALLOT JAMMED IN READER.**” The AVT DRO must follow the appropriate instruction. A ballot that has been returned not counted shall be cleared from the reader and re-inserted. Do not re-insert a ballot that has been counted. A ballot that has been counted and returned shall be cleared from the reader and put in the ballot box. When clearing a jammed ballot, the AVT DRO shall ensure that the secrecy of the vote is maintained at all times.

- (e) The Clerk reserves the right to amend this section as necessary to accurately reflect the message given by the vote tabulator on the return of ballots described in subsections 7(2)(a)-(d) herein during the pre-tests of the vote tabulators using the memory cards that have been programmed for the current election. If such an amendment is deemed necessary, the Clerk shall issue an addendum to this procedure.

Testing of Vote Tabulators

- 8. (1) Within twenty-one days before voting day, the Clerk 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 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 clause 7(2) herein 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 shall, at the successful completion of the test, seal the memory pack to the vote tabulator.
- (3) If the 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.
- (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(4)(a).

Procedure at The Voting Place

Procedures at Start Up

- 10. (1) If a vote tabulator is to be used in a voting place, the AVT DRO 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 pack one hour or less before the opening of the voting place, confirming zero totals.
- (2) If the totals are zero for all candidates, by-laws and questions, **the AVT DRO 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** (see subsection 17(2) for advance poll procedures). The AVT DRO shall sign the zero results tape affixed to the vote tabulator and any scrutineer present who wishes to do so shall be permitted to sign the zero results tape also.
- (3) If the totals are not zero for all candidates, by-laws and questions, or the vote tabulator fails to operate, the AVT DRO or other 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 vote tabulator at the voting place or makes such other arrangements as he/she deems expedient.

Procedures During Voting in Normal Circumstances

- 11. The Clerk may assign an election assistant, in addition to the Deputy Returning Officer, to initial a ballot before the ballot is delivered to a voter.
- 12. (1) The Deputy Returning Officer or an election assistant shall provide a secrecy folder to each person to whom a ballot is provided at the same time as the ballot is provided.
 - (a) After receiving the ballot, the voter shall proceed to the voting compartment and, using the ballot-marking pen or other ballot marking device provided, vote by filling in the circle or oval to the right of the candidate(s) of their choice or for the answer to any by-law or question.
- (2) 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 or other designated election official's initials showing;

- (b) leave the compartment without delay; and
 - (c) deliver the secrecy folder containing the ballot to the AVT DRO.
- (3) The AVT DRO 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 Deputy Returning Officer face up, into the feed area of the vote tabulator until the vote 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 Deputy Returning Officer face up, directly into the ballot box from the secrecy folder in full view of the voter.
 - (c) to protect the secrecy of the vote, scrutineers will not be able to examine the ballots or to object to the ballots or to the counting of votes on 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 AVT DRO or election official.
- (4) If a ballot described in subsection 7(2) (i.e. blank voted ballot or damaged, defective, or invalid ballot) is returned by the vote tabulator and the **voter** who delivered the ballot **is present**, the AVT DRO shall:
- (a) In the case of a **“blank voted”** ballot, advise the elector that he/she has the option to return to the voting area to complete the ballot. If the voter declines to accept another ballot, the AVT DRO shall, without showing the face of the ballot to anyone, override the ballot so that the vote tabulator accepts the ballot. If the ballot cannot be overridden the AVT DRO shall, while maintaining the secrecy of the vote, mark the ballot **“declined”** on the back of the ballot and return it to the DRO who issued it in the folder provided.
 - (b) In the case of **“damaged” or “defective” or “invalid ballot”**, the AVT DRO shall re-insert the ballot into the feed area of the vote tabulator. If the vote tabulator again rejects the ballot, the AVT DRO shall 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 AVT DRO and it shall be returned to the DRO issuing the ballot who will place the ballot in the “cancelled ballot” envelope and provide another ballot to the voter, all while maintaining the secrecy of the vote. If the voter declines to accept another ballot, the AVT DRO 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 Poll Supervisor, the AVT DRO will follow

the procedures outlined in subsection (6).

- (c) In the case of an “**over voted race**”, advise the elector that she/he 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 AVT DRO and it shall be returned to the DRO issuing the ballot who will place the ballot in the “cancelled ballot” envelope and provide another ballot to the voter. If the voter declines to accept another ballot the AVT DRO shall override the ballot so that the vote tabulator accepts the ballot. If the ballot cannot be overridden the AVT DRO 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 Poll Supervisor the AVT DRO shall follow the procedures outlined in subsection (6).
- (5) 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 AVT DRO shall:
 - (a) In the case of a ballot described in 7(2)(a) “**Blank Voted**” or 7(2)(c) “**Over Voted**”, override the ballot so the vote tabulator accepts the ballot. If the ballot cannot be overridden the AVT DRO 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 Poll Supervisor, the AVT DRO shall follow the procedures outlined in subsection (6).
 - (b) In the case of a ballot described in clause 7(2)(b) “**Invalid Ballot**”, 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 Poll Supervisor, the AVT DRO shall follow the procedures outlined in subsection (6).
- (6) After the close of the voting and in conjunction with the Poll Supervisor, the AVT DRO shall check the back-up compartment of the ballot box for ballots to ensure all ballots have been processed. If the vote tabulator still will not process ballots described in section 7(2) (a) (b) and (c),
 - (a) where there are no marks in the specified voting spaces the AVT DRO shall mark the blank ballot “declined” and return it to the DRO who assigned it for accounting purposes.
 - (b) where there are marks in specified voting spaces,
 - (i) prepare a replacement ballot for the defective ballot by marking a new ballot with the same marks contained in the designated voting spaces on the defective ballot. The replacement ballot shall be clearly labeled “**replacement**” and given a serial number (001, 002....) which number shall also be recorded on the defective ballot.

- (ii) substitute the replacement ballot for the defective ballot and feed the replacement ballot into the vote tabulator, and
- (iii) for accounting purposes, return the defective ballot to the DRO who issued the replacement ballot. The DRO shall 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 AVT DRO shall manually insert ballots into the back-up compartment of the ballot box. **At no time should an elector be prevented from casting his or her ballot.**
- (b) The AVT DRO 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 vote tabulator may assist in packing up the faulty equipment.
- (c) The AVT DRO 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 either processed through the faulty equipment or manually inserted into the back-up compartment of the ballot box during the “equipment swap” is sealed and is set aside in a secure location until the close of the poll. These 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 back-up compartment of the ballot box throughout the day and at the close of the poll,
 - (i) the AVT DRO 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).

Procedures at Close of Poll

14. (1) If a vote tabulator has been used to tabulate the votes cast in a voting place, the AVT DRO 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(6), the AVT DRO shall:
 - (a) secure the vote tabulator against receiving any more ballots;
 - (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 Poll Supervisor and any scrutineers who are present and wish to sign;
 - (d) remove the printed record from the vote tabulator;
 - (e) proceed directly to the telephone and phone the results in to Election Central (905-835-2900);
 - (f) provide printouts for any scrutineer upon request;
 - (g) the Poll Supervisor shall collect all completed "DRO Statements of Ballot Account" for return to the City Clerk which define:
 - (i) ballots received from the Clerk
 - (ii) ballots issued
 - (iii) cancelled ballots
 - (iv) declined ballots
 - (v) defective ballots
 - (vi) ballots unused
 - (h) the Poll Supervisor shall report the ballots counted by the vote tabulator on the "Poll Supervisor's Summary Statement of Number of Voters at Polls" and attach the original DRO Statements to it;
 - (i) the Poll Supervisor shall place the original copy of the Poll Supervisor's Summary Statement in the statements envelope as well as the Vote Summary Totals Tape from the AccuVote Tabulator and seal the statements envelope;
 - (j) the AVT DRO shall print a second copy of the election results and attach it to the duplicate copy of the Poll Supervisor's Summary statement. (There is no need to attach the DRO's Statements of Ballot Account to the duplicate of the Poll Supervisor's Summary Statement. The DRO's will place these in their supplies boxes.) The AVT DRO will place the duplicate Summary Statement and all ballots that have been counted by the vote tabulator in a ballot transfer container provided by the Clerk to ensure the safe transfer of the ballots and seal it;

- (k) the AVT DRO shall place all remaining supplies and sealed envelopes, excluding the statement envelope, in a transfer carrier and seal the transfer carrier;
- (l) the ATV Clerk shall personally deliver the transfer carrier, ballot transfer container, vote tabulator and statement envelope to the office of the Clerk or to such other place as the Clerk has directed in writing; and
- (m) the Poll Supervisor shall personally deliver the statement envelope to the Clerk.

Procedures in the Event of Equipment Failure at 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 AVT DRO or an election assistant shall, after the close of 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) place all supplies in the transfer case and seal it;
 - (d) personally deliver the ballot box, transfer carrier, ballot transfer container and vote tabulator to a place designated by the Clerk where a back-up vote tabulator is located;
 - (e) 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 into the back-up vote tabulator; and
 - (g) follow the procedures in subsection 14(1).

No Vote Tabulator Provided

- 3. 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 AVT DRO or election assistant shall, immediately after the close of voting, follow with necessary modifications the procedures in clauses 14(2)(a), (c) and (d); and

- (b) the Clerk, or person designated by the Clerk, shall with necessary modifications follow the procedures in clauses 14(2)(e)-(g).
- 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 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, text 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

- 17. (1) The total of the votes at an advance voting place or at a voting place that closes early under section 46(3) of the Act shall not be printed and the procedures under section 14(1) (b) to (f) shall not be followed until after 8:00 p.m. on the voting day.
- (2) The Advance polls will be treated as separate polls for vote tabulator purposes. The Clerk will provide adequate security and safekeeping of the tape and memory pack between advance poll dates and voting day.

Recounts

- 18. A recount will take place in accordance with the steps laid out in the Recount Procedures and the Vote Tabulator Procedures.
- 19. 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 Election Day.
- 20. (1) A vote tabulator shall be tested before the recount in the manner described in section 8 and 9 so far as practicable.
- (2) The Clerk shall attend the recount and bring the transfer 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 on Election 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) of the Act 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.
- 21. (1) For the purposes of subsection 20(2), “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 section 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 Clerk shall conduct a 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 Election Day.
- (4) The recount shall be a recount of all the original ballots received from the voters in those voting subdivisions.