

<b>Use of tabulators and voter assist terminals</b>	City Clerk's Office – Toronto Elections
	<b>Procedure No.:</b> PRO-DVT-001-BE

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*This procedure has been revised from the general election procedure approved April 2022.*

## **1. Purpose**

This document outlines the City of Toronto's procedures for the use of vote tabulators and voter assist terminals in the City's municipal elections.

## **2. Application**

This procedure applies to election officials designated by the City Clerk, candidates and scrutineers during City of Toronto municipal elections and by-elections.

## **3. Authority/Legislative reference(s)**

Section 42(1)(a) of the Municipal Elections Act, 1996 authorizes the use of voting and vote-counting equipment such as voting machines, voting recorders or optical scanning vote tabulators.

City of Toronto Municipal Code, Chapter 53, Article 1, adopted by By-Law 79-2000, authorizes the use of voting and vote-counting equipment for municipal elections in the City of Toronto.

## **4. Storage and Security**

All tabulators, voter assist terminals, memory media and election supplies shall be securely stored at the City Clerk's designated location before and after use at the voting places during the election.

## **5. Pre-election procedures**

### **Preventative maintenance**

- (1) The equipment vendor shall conduct full maintenance of all tabulators and voter assist terminals prior to voting days.

### **Appearance of ballots**

- (2) A space for marking the ballot shall appear on the ballot to the right of the candidates' names or, in the case of a by-law or question, to the right of each answer.
- (3) The instruction on the ballot shall direct electors to vote by marking the space to the right of the candidate of choice and the answer to any by-law or question.

### **Programming of the tabulators and voter assist terminals**

- (4) The tabulators shall be programmed so that:
  - (a) a printed record of the results can be produced indicating the number of votes cast for each candidate and for the answer to any by-law or question.
  - (b) a ballot is returned to the designated election official if the tabulator determines that the ballot:
    - (i) has no votes in the designated voting spaces;
    - (ii) has more votes in the designated voting spaces than an elector is entitled to mark on a ballot; and
    - (iii) is damaged or defective or has been marked in such a way that it cannot be properly processed.
- (5) The voter assist terminals shall be programmed so that:
  - (a) the memory media contains all the ballot styles for the specific ward;
  - (b) each ballot inserted is recognized and a vote can be marked for the selected candidate for each office and for the answer to any by-law or question; and
  - (c) the elector is able to review and confirm their selected candidate for each office and for the answer to any by-law or question prior to marking the ballot.

## **Logic and accuracy testing**

- (6) The City Clerk shall provide notice of the date and time of the logic and accuracy testing to candidates and the public.
- (7) Prior to voting days, the City Clerk or designate shall:
  - (a) test each tabulator to ensure it accurately counts the votes cast for all candidates and answers to any by-law or question; and
  - (b) test each voter assist terminal to ensure it accurately marks the ballots for all candidates and answers to any by-law or question.
- (8) Adequate safeguards shall be taken when testing the tabulators and voter assist terminals to ensure that the system, or any part of it used for tabulating and marking votes is isolated from all other applications or programs and that no remote devices are capable of gaining access to them.
- (9) The test for each tabulator shall be conducted by:
  - (a) loading the memory media into the tabulator designated for that voting subdivision;
  - (b) producing a zero tape before the test to confirm that no votes are stored in the memory media; and
  - (c) feeding and tabulating the ballots and comparing the results against the pre-determined outcome.
- (10) The test for each voter assist terminal shall be conducted by:
  - (a) loading the memory media into the voter assist terminal designated for that ward;
  - (b) inserting each ballot style for the ward to ensure they are accepted and will display them on the voter assist terminal touch screen;
  - (c) inserting blank ballots and marking each ballot according to a predetermined number of votes for each candidate and answers to any by-law or question, using each type of assistive device;
  - (d) determining if an elector is prevented from marking more designated voting spaces for an office and by-law or question on the ballot than the elector is entitled;

- (e) permitting an elector to decline marking a ballot;
  - (f) preparing the tabulator and producing a zero tape to confirm that no votes are stored in the memory media; and
  - (g) feeding the ballots marked by the voter assist terminal into the tabulator and ensuring that the results are consistent with the predetermined outcome.
- (11) Any errors detected in the testing of the tabulators and voter assist terminals shall be identified, corrected and the test repeated until the desired test results are achieved.

### **Completion of testing**

- (12) At the completion of the testing, the City Clerk or designate shall:
- (a) in the case of the tabulator, clear the totals of each tabulator memory media and seal it inside the memory media slot of the tabulator;
  - (b) in the case of the voter assist terminal, seal the memory media in the memory media slot of the voter assist terminal; and
  - (c) securely store the tabulators and voter assist terminals containing the memory media until they are deployed to a voting place for use during the advance vote and on election day.

## **6. Voting place procedure**

- (1) A tabulator shall be used in every voting place during the advance vote and on election day, with the exception of voting places for institutions (long term care homes and retirement homes). Refer to the City Clerk's procedure for *Voting place management at institutions: long term care homes and retirement homes*.
- (2) A voter assist terminal shall be available at every voting place during the advance vote and on election day.

### **Candidates and scrutineers**

- (3) Candidates and scrutineers' roles and responsibilities at the voting place are outlined in the Municipal Elections Act.
- (4) To protect the secrecy of the vote, candidates or scrutineers are prohibited from accompanying and assisting electors at the voter assist terminal.

- (5) Candidates and scrutineers are prohibited from examining or objecting to a ballot while it is being fed into the tabulator.

### **Zero tape**

- (6) Before the opening of the voting place during the advance vote and on election day, the designated election official shall produce a zero tape, showing that no votes are stored on the memory media of the tabulator, for all candidates running in the ward or for answers to any by-laws or questions.
- (7) The zero tape shall only be produced on the first day of the advance vote.
  - (a) Upon the beginning of voting for each subsequent advance vote day, a report will be printed with the configuration details of the tabulator, including the ward and subdivision.
- (8) The zero tape shall remain affixed to the tabulator until the results are printed by the tabulator after the close of the voting place on election day.
  - (a) During advance vote, the zero tape and the configuration report printed at the beginning of each advance vote day shall remain affixed to the tabulator until the close of voting on election day.
- (9) Candidates or scrutineers may be present when the designated election official produces the zero tape.
- (10) If the zero tape totals show any votes are stored on the memory media of the tabulator, for all candidates running in the ward or for answers to any by-laws or questions, the designated election official shall immediately notify the City Clerk and other designated election officials, and the tabulator will be replaced.

### **Marking the ballot**

- (11) A designated election official shall issue a ballot to an elector in a secrecy folder.
- (12) An elector can mark a ballot manually or use the voter assist terminal to mark a ballot.
- (13) To mark a ballot manually, the elector shall proceed to a voting screen and vote by marking the oval to the right of the candidate of their choice or for the answer to any by-law or question.

- (a) After marking the ballot, the elector shall place the ballot into the secrecy folder and proceed to the designated election official.
  - (b) The designated election official shall feed the ballot into the tabulator while the elector is still in the voting place.
- (14) To mark the ballot using the voter assist terminal, the designated election official shall, in consultation with the elector, determine the type of assistive device(s) the elector requires to mark the ballot.
- (a) The designated election official shall attach the device(s) to the voter assist terminal.
  - (b) After listening to or viewing the instructions on the voter assist terminal, the elector shall mark the ballot using the assistive device(s) to mark the space to the right of the candidate of their choice or for the answer to any by-law or question.
  - (c) After marking the ballot, the elector shall place the ballot into the secrecy folder.
  - (d) The elector shall proceed to the designated election official who shall feed the ballot into the tabulator while the elector is still in the voting place.

### **Malfunctioning tabulator**

- (15) If the tabulator fails to operate during voting, the designated election official shall contact the designated contact centre for instructions.
- (a) The designated election official shall insert the ballot from the secrecy folder directly into the auxiliary compartment, in full view of the elector.
  - (b) If a tabulator is replaced during voting and the original memory media is still being used, the designated election official shall feed the ballots from the auxiliary compartment into the replacement tabulator.
- (16) If the memory media is replaced during voting, the designated election official shall feed all ballots, including any from the auxiliary compartment, into the replacement tabulator.

### **Ballots where the tabulator detects no votes**

- (17) The tabulator shall return a ballot if it detects no votes in any of the designated voting spaces.
- (18) The designated election official shall:
  - (a) press the "Return" button and advise the elector that the tabulator does not recognize any marks made on the ballot; and
  - (b) return the ballot to the elector and instruct the elector how to mark the ballot.
- (19) If the elector does not want to re-mark the ballot, the designated election official shall re-feed the ballot and press the "Cast Blank Ballot" button so that the ballot is accepted into the tabulator.
- (20) If the elector is not present and the tabulator returns the ballot because it does not detect any votes in the designated voting spaces, the designated election official shall press the "Cast Blank Ballot" button so that the ballot is accepted into the tabulator.

### **Ballots where the tabulator detects more votes than the elector is entitled to mark**

- (21) The tabulator shall return a ballot if it detects more votes in the designated voting spaces than an elector is entitled to mark on a ballot.
- (22) The designated election official shall:
  - (a) press the "Return" button, to return the ballot to the elector and advise that the tabulator detects more than one vote for an office or for an answer to a by-law or question;
  - (b) instruct the elector that only one vote is permitted per office or for any answer to a by-law or question; and
  - (c) ask the elector if they wish to obtain a new ballot.
    - (i) If the elector wishes to obtain another ballot, the designated election official shall fold the original ballot in half, write "SPOILED" across the back of the ballot and place it in the designated file folder. The designated election official shall issue a replacement ballot to the elector for marking.



- (23) If the elector is not present and the tabulator returns the ballot because it has detected more votes in the designated voting spaces than an elector is entitled to mark, the designated election official shall press the "Cast" button so that the ballot is accepted into the tabulator.
- (24) If, at any point, the elector does not wish to obtain a replacement ballot, the designated election official shall press the "Cast" button so that the ballot is accepted into the tabulator.

### **Damaged or Defective Ballots**

- (25) If the tabulator does not accept a ballot because it is damaged or defective, the designated election official shall:
  - (a) remove the ballot and advise the elector that the tabulator did not accept the ballot;
  - (b) re-insert the ballot, trying different orientations (face-down/head-first/last);
  - (c) if rejected again, return the ballot to the elector and direct them to obtain a new ballot;
  - (d) fold the original ballot in half, and write "SPOILED" across the back of the ballot;
  - (e) place the "SPOILED" ballot in the designated file folder; and
  - (f) issue a replacement ballot to the elector for marking.
- (26) If the elector refuses to accept a replacement ballot and the tabulator still does not accept the ballot, the designated election official shall fold the ballot in half and write "DECLINED" on the back and place it in the designated file folder.
- (27) If the elector is not present and the tabulator returns the ballot because it is damaged, defective or has been marked in such a way that the tabulator does not accept it, the designated election official shall:
  - (a) fold the original ballot in half and write "SPOILED – replaced" across the back;
  - (b) prepare a replacement ballot in full view of any candidates or scrutineers present by marking the replacement ballot with the same mark(s) contained in the designated voting space(s) as the original ballot; and

- (c) feed the replacement ballot into the tabulator.

## **7. Closing of the voting place during the advance vote**

- (1) Each night of the advance vote, after the close of voting, the designated election official shall:
  - (a) ensure any ballots in the auxiliary compartment are fed into the tabulator;
  - (b) ensure that the polls are not closed and the election results are not generated;
  - (c) unplug the tabulator, close and lock the screen;
  - (d) unplug the voter assist terminal; and
  - (e) ensure the tabulator and voter assist terminal are securely stored.
- (2) On the last night of the advance vote, after the close of voting, the designated election official shall repeat steps 7(1)(a) to (c) and deliver it to the City Clerk's designated location.
- (3) The voter assist terminal will be returned to its case and securely stored until election day.
- (4) The City Clerk shall provide notice to candidates of the location.
- (5) At the City Clerk's designated location:
  - (a) the tabulator will, with the memory media and zero tape remain sealed and intact and shall be stored in a secure place until election day; and
  - (b) the designated election official shall generate advance vote results after the close of voting on election day.

## **8. Closing of the voting place on election day**

- (1) After the close of voting on election day, the designated election official shall:
  - (a) ensure any ballots that may be in the auxiliary compartment have been fed into the tabulator;

- (b) close the poll on the tabulator to produce the results tape;
  - (i) the tabulator shall print two copies of the results tape; and
- (c) place the tabulator in the carrying case, lock and seal the case and transport it to the City Clerk's designated location.

**Malfunctioning tabulator at the close of election day**

- (2) If the tabulator fails to operate within the last 30 minutes of voting, the designated election official shall contact the designated contact centre for instructions.
- (3) The designated election official shall:
  - (a) remove the ballots from the tabulator stand and place them into the designated ballot box;
  - (b) remove any ballots from the auxiliary compartment, place them into the "Auxiliary compartment ballots" envelope and seal it;
  - (c) advise all candidates and scrutineers present of the City Clerk's designated location where a backup tabulator is located and their right to be present at that location; and
  - (d) deliver the tabulator, designated file folder and all used ballots to the City Clerk's designated location.
- (4) At the City Clerk's designated location, in the presence of all candidates or scrutineers present, the designated election official shall:
  - (a) remove the memory media from the malfunctioning tabulator and insert it into the backup tabulator;
  - (b) feed any ballots from the "Auxiliary compartment ballots" envelope into the backup tabulator;
  - (c) close the poll on the tabulator to produce the results tape; and
  - (d) the tabulator shall print two copies of the results tape.
- (5) If the tabulator memory media has malfunctioned within the last 30 minutes of voting, the designated election official shall follow 6(15)(a).

- (a) At the City Clerk's designated location, in the presence of all candidates or scrutineers present, the designated election official shall:
  - (i) obtain the replacement tabulator memory media and insert it into the original tabulator;
  - (ii) produce a zero tape of all totals in the memory media; and
  - (iii) feed all ballots, including any from the auxiliary compartment, into the tabulator.

#### **9. Production of election results from the advance vote**

- (1) At the City Clerk's designated location, a designated election official shall generate the advance vote results for each tabulator and voting place by:
  - (a) closing the poll on the tabulator to produce the results tape;
    - (i) the tabulator shall print two copies of the results tape; and
  - (b) removing the memory media from the tabulator and inserting it into a memory media reader that uploads the results to the City's results system.

#### **10. Election Results**

- (1) Election results will be generated by closing the poll on the tabulator and:
  - (a) producing two copies of the results tape on each tabulator for viewing by any scrutineers or candidates present;
  - (b) entering the voting results into the results system via data entry by the designated election official(s); and
  - (c) securely removing the memory media from the tabulator and uploading the voting results directly through the City of Toronto network to the results system.

#### **11. Post-election testing**

- (1) A post-election test shall be conducted by inserting the memory media with zero votes into the tabulators and tabulating a pre-determined group of ballots.

- (2) The tabulated results shall be compared against the pre-determined results.
- (3) Any errors detected in the testing of the tabulators shall be identified, corrected and the test repeated until the desired results are achieved.

**12. Retention of election documents**

- (1) The City Clerk shall retain and have access to the memory media, ballots, results tapes and other materials that were produced during the pre- and post-election tests.
- (2) The City Clerk shall not alter these materials and shall retain them in the same manner as is provided for in the Municipal Elections Act for the keeping of election records.

**Date Approved: December 5, 2022**