**THE CITY OF WINNIPEG**

**BY-LAW NO. 150/2005**

**A By-law of THE CITY OF WINNIPEG respecting the procedure for voting and for the use of optical scanning vote tabulators.**

**WHEREAS** *The Municipal Councils and School Board Elections Act* provides for the holding of local elections by municipalities;

**AND WHEREAS** The *Municipal Councils and School Boards Elections Act* authorizes the use of vote counting machines as provided therein,

**NOW THEREFORE THE CITY OF WINNIPEG**, in Council assembled, enacts as follows:

**SHORT TITLE:**

1. This by-law shall be referred to as the **"Vote-Counting Machines By-law".**

**DEFINITIONS**

2. In this by-law all definitions shall be in accordance with *The Municipal Councils and School Boards Elections Act*, except for the following:

**"Acceptable Mark"** means any mark made by an elector on a ballot in the space provided opposite the name of any candidate, which the vote tabulator unit is able to record.

**"Automated Vote Counting System"** means a system that counts and records votes and processes and stores election results which comprises:

(1) ballot scan vote tabulator(s), which rest(s) on a two compartment ballot box, one compartment of which is for:

(a) voted ballots; and,

(b) returned ballots which have been reinserted using the ballot override procedure,

and the other for the temporary storing of voted ballots during such time as the vote tabulator unit is not functioning; and

(2) a number of portable ballot boxes into which voted ballots are deposited where a vote tabulator is not being used, for counting after the close of voting on election day.

**"Ballot"** means a single automated ballot card designed for use in an automated vote counting system, which shows the names of all of the candidates for each of the offices contested.

**"Ballot Marking Device"** means the pen or other instrument, approved by the Senior Election Official, for the use in marking ballots by the elector.

**"Ballot Return Override Procedure"** means the use, by an election officer, of a device on a vote tabulator, which causes the unit to accept a returned ballot.

"**Blank Ballot"** means a ballot without votes in any of the specified voting areas as determined by a vote tabulator.

**"Election Headquarters"** means Council Building, Civic Centre, 510 Main Street, Winnipeg, Manitoba.

**"Election Official"** means a person appointed as a senior election official, or an assistant senior election official or any election official or supervising election officials appointed by the senior election official.

**"Emergency Ballot Compartment"** means one of two separate compartments in the ballot box under each vote tabulator unit into which voted ballots are temporarily deposited in the event that the unit ceases to function.

**"Memory Pack"** means a computer software cartridge which plugs into the vote tabulator and into which is pre-programmed the names of all of the candidates for each of the offices contested and a mechanism to record and retain information on the number of votes for each candidate.

**"Modem"** means the device utilized to electronically transmit voting data.

**"Overvoted Ballot"** means a ballot which contains votes for more candidates than are to be elected to an office.

**"Portable Ballot Box"** means a ballot box which is used at a voting place in the election, where a vote tabulator is not being used.

**"Register Tape"** means the printed record generated from a vote tabulator at the close of voting on election day which shows the number of votes for each candidate for each office contested.

**"Returned Ballot"** means a ballot which was inserted into the vote tabulator by the elector, but which was not accepted and which was returned to the elector with an explanation of the ballot marking error which caused the ballot not to be accepted.

**"Secrecy Sleeve"** means an open-ended folder or envelope used to cover ballots to conceal the choices made by each elector.

**"Voting Official"** means an election official who is responsible for the conduct of voting at a voting station.

**"Voting Record"** means the register of electors who have cast their vote and contains the voters list and information relating to the ballot.

**"Vote Tabulator"** means the device into which voted ballots are inserted and which scans each ballot and records the number of votes for each candidate.

**AUTHORIZATION**

3. The City of Winnipeg may use an automated vote counting system for the election of the candidates for each of the offices contested in any election.

**FORM OF BALLOT**

4. The ballot shall contain the names listed in an order determined by random lot of the duly nominated candidates for Mayor and Councillor and, where the elector is eligible to vote for School Trustee, shall contain the names of the duly nominated candidates for School Trustee. The ballot shall be a reasonable facsimile of the draft attached hereto as Schedule A.

**VOTE TABULATOR**

5. The vote tabulator shall be programmed to:

(1) return ballots as follows:

(a) blank ballots;

(b) overvoted ballots; and,

(c) a ballot that has been incorrectly printed, cut or has been marked outside the voting area or inserted into a vote tabulator in such a way that the vote tabulator is unable to identify the markings on the ballot.

(2) Print out the message corresponding to the reason for the returned ballot.

**PRE-VOTE PROCEDURE**

6. (1) No vote tabulator nor any memory pack shall be used in an election unless it is first tested successfully in accordance with this section and is attested to by an election official signing the register tape showing test results that match the pre-audited results.

(2) The test of a vote tabulator and memory pack shall be conducted by

(a) inserting the memory pack in the vote tabulator;

(b) using the vote tabulator to count a pre-audited group of ballots including ballots that fall into the categories referred to in subsection 4(1) and ballots on which are marked a predetermined number of votes for each candidate eligible for votes at the poll or polls for which the memory pack has been programmed;

(c) generating a register tape of the results; and

(d) comparing the tabulate results with the pre-audited results to ensure accuracy.

(3) Each vote tabulator or memory pack must be tested within 45 days prior to use.

(4) Upon request, each candidate is to be provided with evidence of the testing procedure.

(5) Prior to 8:00 a.m. on election day, the election officer shall cause the vote tabulator to print a copy of all totals in its memory pack and ensure that all totals indicate zero. The election officer shall then certify by signature on the printout that the totals so indicate zero and shall ensure that such printout is provided to the Senior Election Official at Election Headquarters.

**VOTING PROCEDURES**

7. (1) Upon ensuring that:

(a) the elector is qualified to vote in the election;

(b) the elector is voting in the correct voting station; and,

(c) the elector's name is contained in the voting record and any other related information regarding objections, and affidavits is recorded therein;

the voting official shall provide a ballot, bearing his or her initials to the elector along with a secrecy sleeve.

(2) Upon receiving the ballot and secrecy sleeve, the elector shall immediately proceed to a voting compartment to vote.

(3) The elector may vote only by making an acceptable mark on the ballot beside the name of each candidate of choice, up to the maximum number of candidates to be elected for each of the offices contested.

(4) Upon having marked the ballot the elector shall place the ballot into the secrecy sleeve and deliver same to the voting official designated who shall

(a) in the presence of the elector, and before removing the ballot from the secrecy sleeve, confirm that the ballot bears the initials of the voting, and;

(b) remove the ballot from the secrecy ballot face down and insert the ballot directly into the vote tabulator.

(5) If, before delivery of the ballot to the voting official, the elector determines that an error may have been made in marking the ballot or if the ballot is returned by the vote tabulator, the elector may request a replacement ballot from the voting official.

(6) Upon a request pursuant to subsection (5) hereof, the voting official shall issue a replacement ballot to the elector and mark the returned ballot "spoiled" and retain such spoiled ballots separately from all other ballots and same shall not be counted in the election.

(7) If the voter wishes to decline their ballot, the voter may write “declined” anywhere on the back of the ballot and deliver it to the voting official for insertion into the vote tabulator.

(8) Where the ballot has been returned by the vote tabulator, and the elector declines the opportunity to obtain a replacement ballot, the voting official shall, using the ballot return override procedure, reinsert the ballot into the vote tabulator to count any acceptable marks.

(9) During any period that the vote tabulator is not functioning, the voting official supervising the unit shall insert all ballots presented by electors during that period into the emergency ballot compartment, and the ballots in that compartment shall, after the poll closes, be removed by the voting official and inserted into the vote tabulator to be counted.

(10) Any ballots which were temporarily stored in the emergency ballot compartment, which are returned by the vote tabulator when being counted in accordance with the provisions of subsection (8) hereof, shall, through the use of the ballot return override procedure, be reinserted into the vote tabulator unit to count any acceptable marks.

(11) Any ballot which does not bear the initials of the voting official or which is damaged to the extent that it cannot be inserted into the vote tabulator and for which no replacement ballot was provided shall be marked "spoiled" and not counted in the election.

**ALTERNATIVE VOTING OPPORTUNITIES**

8. (1) Alternative voting opportunities, including advanced voting, mobile voting and voting by sealed envelope may be provided in accordance with *The Municipal Councils and School Boards Elections Act*.

(2) Vote tabulators must be used to conduct the vote at all alternative voting opportunities as identified by the Senior Election Official and voting procedures shall be in accordance with the provisions of Section 6 hereof, but not every voting station must be equipped with a vote tabulator;

(3) Every ballot marked by a vote must be placed in either a vote tabulator or a temporary ballot box.

(4) A vote tabulator must be used to count the ballots that are placed in every temporary ballot box.

(5) At the close of voting each day at an alternative voting station, the voting official in each case shall ensure:

(a) that no additional ballots are inserted into the vote tabulator or temporary ballot box;

(b) that the emergency ballot compartment is locked to prevent insertion of ballots;

(c) that the register tapes in the vote tabulator are not generated; and,

(d) that the memory pack in the vote tabulator is secured.

(6) The voting official at each alternative voting station shall, at the close of voting on the final voting day:

(a) ensure that any remaining ballots in the emergency ballot compartment are inserted into the vote tabulator;

(b) secure the vote tabulator so that no more ballots can be inserted; and,

(c) ensure delivery of the vote tabulator or ballot box together with the memory pack and all other materials used in the election to the Senior Election Official at Election Headquarters.

(d) the Senior Election Official shall input all ballots from any ballot boxes used into vote tabulator upon receipt.

**PROCEDURES AFTER THE CLOSE OF VOTING ON ELECTION DAY**

9. After the close of voting on election day the voting official shall:

(1) ensure that any remaining ballots in the emergency ballot compartment are inserted into the vote tabulator;

(2) secure the vote tabulator so that no more ballots can be inserted;

(3) generate three copies, or other such number as directed by the Senior Election Official, of the register tape from the vote tabulator;

(4) ensure delivery of one copy of the register tape and the memory pack from the vote tabulator unit to the Senior Election Official at Election Headquarters;

(5) transmit election data to the Senior Election Official via modem if so instructed;

(6) immediately post one copy of the tape at the polling location and distribute the other copy among the remaining election officials;

(7) complete a ballot statement accounting for the unused, spoiled and voted ballots and return it and the unused and spoiled ballots to the Senior Election Official;

(8) ensure delivery of the voting record and all other election materials to the Senior Election Official; and,

**ELECTION HEADQUARTERS PROCEDURES**

10. After the close of voting on Election Day, the Senior Election Official shall:

(1) Generate copies of the register tape from the vote tabulator for alternative voting stations;

(2) Cause all election results to be tabulated and displayed at Election Headquarters; and,

(3) Ensure the transport and security of all election equipment, ballots, and other materials to a designated election storage facility.

**REPEAL**

11. By-law No. 6650/95 is hereby repealed.

**DONE AND PASSED** in Council assembled, this day of , 2006.

_____
Mayor

_____
City Clerk

Certified as to form:

_____
For City Solicitor/Manager
of Legal Services

Schedule "A"

**Sample Ballot**

EO's Initials

Ballot for the
City of Winnipeg
Civic Election

City of Winnipeg
October 28, 1998

**WARD NAME / NUMBER**

To vote, with the pen provided, complete the arrow pointing to the candidate of your choice.
Pour voter, complétez la flèche en regard du candidat de votre choix, en utilisant le stylo fourni.

| For the Office of MAYOR<br>Pour Élire un MAIRE | For the Office of COUNCILLOR<br>Pour Élire un CONSEILLER MUNICIPAL | For the Office of SCHOOL TRUSTEES<br>Pour Élire des COMMISSAIRES D'ÉCOLES |
|---|---|---|
| Vote for One Person Only<br>Voter Pour Une Seule Personne | Vote for One Person Only<br>Voter Pour Une Seule Personne | Vote for Not more than 4 Persons<br>Voter Pour 4 Candidats au Plus |
| **CANDIDATE ONE** | **CANDIDATE ONE** | **CANDIDATE ONE** |
| **CANDIDATE TWO** | **CANDIDATE TWO** | **CANDIDATE TWO** |
| **CANDIDATE THREE** | **CANDIDATE THREE** | **CANDIDATE THREE** |
| **CANDIDATE FOUR** | | **CANDIDATE FOUR** |
| | | **CANDIDATE FIVE** |