



CITY OF YELLOWKNIFE

BY-LAW NO. 5043

BG 76

A BY-LAW of the Council of the Municipal Corporation of the City of Yellowknife in the Northwest Territories, to allow for election procedures authorized under the *Local Authorities Elections Act*.

PURSUANT TO Section 52.1 and 52.2 of the *Local Authorities Elections Act*, R.S.N.W.T. 1988, c.L-10.

WHEREAS the Council of the Municipal Corporation of the City of Yellowknife wishes to provide for municipal voting alternatives and the use of vote counting machines for Elections, By-elections and Referendums.

NOW, THEREFORE, THE COUNCIL OF THE MUNICIPAL CORPORATION OF THE CITY OF YELLOWKNIFE, in regular sessions duly assembled, enacts as follows:

APPLICATION

1. This By-law may be cited as the Elections By-law.
2. The Returning Officer for the City of Yellowknife may allow a voter to vote in their office during a Municipal General Election, By-election or Referendum (“Election”) provided that:
 - a) The public is notified of the location, dates and times that they are able to vote at the Office of the Returning Officer;
 - b) The name of each person that has cast their ballot at the Office of the Returning Officer is recorded;
 - c) The Returning Officer notifies each Deputy Returning Officer of the names of all the people who voted at the Office of the Returning Officer;
 - d) The ballots cast at the Office of the Returning Officer are secured and remain in the custody of the Returning Officer so as to prevent ballots from being added to or taken from them until the counting of ballots at the close of voting stations on election day;
 - e) Only those ballots cast at the Office of the Returning Officer no later than the close of voting stations on election day are counted; and
 - f) The Returning Officer shall ensure that voters vote only once in the Election, that they are able to vote secretly, and that their votes are not counted until the count of votes at the close of voting stations on election day.

3. The Returning Officer for the City of Yellowknife may allow a voter to vote by mail-in ballot during an Election provided that:
- a) The public is notified of mail-in balloting options available during the Election and how to request a mail-in ballot if one is not automatically mailed to all eligible voters;
 - b) A voter that requests a mail-in ballot must do so in writing and provide proof of identity to the Returning Officer;
 - c) The name of each person that has requested and returned a mail-in ballot is recorded as having voted;
 - d) The Returning Officer notifies each Deputy Returning Officer of the names of all voters who have requested a mail-in ballot and are recorded as having voted;
 - e) The mail-in ballots returned and received by the Returning Officer are secured and remain in the custody of the Returning Officer so as to prevent ballots from being added to or taken from them until the counting of ballots at the close of voting stations on election day;
 - f) Only those mail-in ballots received no later than the close of voting stations on election day are counted; and
 - g) The Returning Officer shall ensure that voters vote only once in the Election, that they are able to vote secretly, and that their votes are not counted until the count of votes at the close of voting stations on election day.
4. The Returning Officer for the City of Yellowknife may allow for the counting of ballots at a voting station by means of vote counting machines / tabulators in accordance with the procedures outlined in Schedule "A" attached hereto and forming part of this by-law.

REPEALS

5. By-law No. 4705 is hereby repealed.


EFFECT

6. That this by-law shall come into effect upon receiving Third Reading and otherwise meets the requirements of Section 75 of the *Cities, Towns and Villages Act*.

Read a First time this 29 day of September, A.D. 2021.



 Mayor



 City Manager

Read a Second Time this 27 day of SEPTEMBER, A.D. 2021.

[Signature]
Mayor

[Signature]
City Manager

Read a Third Time and Finally Passed this 4 day of OCTOBER, A.D., 2021.

[Signature]
Mayor

[Signature]
City Manager

I hereby certify that this by-law has been made in accordance with the requirements of the *Cities, Towns and Villages Act* and the by-laws of the Municipal Corporation of the City of Yellowknife.

[Signature]
City Manager



SCHEDULE "A"**1. Storage and Security**

All tabulators, memory cards and election supplies shall be securely stored at the Returning Officer's designated location before and after use at the voting stations during the election.

2. Pre-election procedures**Preventative maintenance**

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

Appearance of ballots

- (2) The appearance of ballots shall be in accordance with the *Local Authorities Elections Act*.

Programming of the tabulators

- (3) 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 election officer 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 a voter is entitled to mark on a ballot; or
 - iii. is damaged or defective or has been marked in such a way that it cannot be properly processed.

Logic and accuracy testing

- (4) Prior to voting days, the Returning Officer shall test each tabulator to ensure it accurately counts the votes cast for all candidates and answers to any by-law or question.
- (5) Adequate safeguards shall be taken when testing the tabulators to ensure that the system or any part of it used for tabulating is isolated from all other applications or programs and that no remote devices are capable of gaining access to them.
- (6) The test for each tabulator shall be conducted by:

- (a) loading the memory card into the tabulator designated for that voting station.
 - (b) producing a zero tape before the test to confirm that no votes are stored in the memory card.
 - (c) feeding and tabulating the ballots and comparing against the pre- determined results.
- (7) Any errors detected in the testing of the tabulators shall be identified, corrected and the test repeated until the desired test results are achieved.

Completion of testing

- (8) At the completion of the testing, the Returning Officer or designate shall:
- (a) clear the totals of each tabulator memory card and seal it inside the memory card slot of the tabulator.
 - (b) securely store the tabulators containing the memory cards until they are deployed to a voting station for use during the voting at the office of the Returning Officer and on election day.

3. Voting station procedure

- (1) A tabulator shall be used in every voting station during the voting at the Office of the Returning Officer and on election day.

Candidates and scrutineers

- (2) Candidates and scrutineers' roles and responsibilities at the voting station are outlined in the *Local Authorities Elections Act*.
- (3) To protect the secrecy of the vote, candidates or scrutineers are prohibited from accompanying and assisting voters while voting.
- (4) Candidates and scrutineers are prohibited from examining or objecting to a ballot while it is being fed into the tabulator.

Zero tape

- (5) Before the opening of the voting station during the voting at the Office of the Returning Officer and on election day, the election officer shall produce a zero tape of all totals in the memory card of the tabulator.

- (6) The zero tape shall only be produced on the first day of the voting at the Office of the Returning Officer.
- (7) The zero tape shall remain affixed to the tabulator until the results are printed by the tabulator after the close of the voting station.
- (8) Candidates or scrutineers may be present when the election officer produces the zero tape.
- (9) If the zero tape total is not zero for all candidates or for answers to any by- laws or questions, the election officer shall immediately notify the Returning Officer or other election officers.

Marking the ballot

- (10) An election officer shall issue a ballot to a voter in a secrecy folder.
- (11) The voter shall proceed to a voting screen and vote by marking the space 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 voter shall place the ballot into the secrecy folder and proceed to the election officer.
 - (b) The election officer shall feed the ballot into the tabulator while the voter is still in the voting station.

Malfunctioning tabulator

- (12) If the tabulator fails to operate during voting, the election officer shall contact the designated call centre for instructions.
- (13) The election officer shall insert the ballot from the secrecy folder directly into the auxiliary compartment in full view of the voter.
- (14) When the tabulator becomes operational again, the election officer shall insert the ballots from the auxiliary compartment into the tabulator.
- (15) If a tabulator is replaced during voting and the original memory card is used, the election officer shall feed the ballots from the auxiliary compartment into the replacement tabulator.
- (16) If the memory card must be replaced during voting, the election officer shall feed all ballots, including any from the auxiliary compartment, into the replacement tabulator.

Ballots where the tabulator detects less votes than a voter is entitled to mark

- (17) The tabulator shall accept ballots where the tabulator has detected less votes in the designated voting spaces than a voter is entitled to mark on a ballot, providing that a mark has been detected for at least one office.

Ballots where the tabulator detects no votes

- (18) The tabulator shall return a ballot if it detects no votes in the designated voting spaces.
- (19) The election officer shall:
- (a) advise the voter that the tabulator does not recognize any marks made on the ballot and
 - (b) return the ballot to the voter and instruct the voter how to mark the ballot.
- (20) If the voter does not want to re-mark the ballot, the election officer shall re-feed the ballot into the tabulator and press the "Accept" button.
- (21) If the voter is not present and the tabulator returns the ballot because it detects no votes in the designated voting spaces, the election officer shall press the "Accept" button so that the ballot is drawn into the tabulator.

Ballots where the tabulator detects more votes than the voter is entitled to mark

- (22) The tabulator shall return a ballot if it detects more votes in the designated voting spaces than a voter is entitled to mark on a ballot.
- (23) The election officer shall:
- (a) return the ballot to the voter and advise that the tabulator reads more votes than the voter is entitled to mark or more than one vote for an answer to a by-law or question.
 - (b) instruct the voter that on how many candidates they may vote for or for any answer to a by-law or question.
 - (c) ask the voter if he or she wishes to obtain a new ballot.
 - (i) If the voter does not wish to obtain a new ballot, re-feed the ballot into the tabulator and press the "Accept" button.
 - (ii) If the voter wishes to obtain another ballot, the election officer shall fold the original ballot in half, write "cancelled" across the

back of the ballot and place it in the designated envelope. The election officer shall issue a replacement ballot to the voter for marking.

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

Damaged or Defective Ballots

- (26) If the tabulator does not accept a ballot because it is damaged or defective, the election officer shall:
 - (a) remove the ballot and advise the voter that the tabulator did not accept ballot.
 - (b) re-insert the ballot, trying different orientations (face-down/head- first/last).
 - (c) if rejected again, return the ballot to the voter and direct them to obtain a new ballot.
 - (d) the election officer shall fold the original ballot in half, write "cancelled" across the back of the ballot.
 - (e) place the "cancelled" ballot in the designated envelope.
 - (f) issue a replacement ballot to the voter for marking.
- (27) If the voter refuses to accept a replacement ballot and the tabulator still does not accept the ballot, the election officer shall fold the ballot in half and shall write "declined" on the ballot and place it in the designated envelope.
- (28) If the voter 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 election officer shall:
 - (a) fold the original ballot in half and write "cancelled – replaced" across the original ballot.
 - (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.

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

4. Closing of the voting station during the voting at the Office of the Returning Officer

- (1) Each night of the voting at the Office of the Returning Officer, after the close of voting, the election officer shall:
 - (a) feed any ballots from the auxiliary compartment into the tabulator.
 - (b) ensure that the election results are not generated.
 - (c) unplug the tabulator and place it in the appropriate carrying cases.
 - (d) ensure the tabulator is securely stored.

5. Closing of the voting station on election day

- (1) After the close of voting on election day, the election officer shall:
 - (a) feed any ballots from the auxiliary compartment into the tabulator.
 - (b) turn the tabulator key to the "Open/Close Poll" position and press the button under "Close Polls" to produce the results tape.
 - (c) deliver the tabulator and other election supplies to the Returning Officer's designated location.

Malfunctioning tabulator at the close of election day

- (2) If the tabulator fails to operate at the voting station at the close of the voting period, the election officer shall contact the designated call centre for instructions.
- (3) The election officer shall:
 - (a) remove the ballots from the tabulator stand and place them into a designated ballot box along with the envelope containing the cancelled and declined ballots.
 - (b) remove any ballots from the auxiliary compartment, place them into a separate box, write on the box "Auxiliary compartment ballots" and seal it.
 - (c) advise all candidates and scrutineers present of the Returning Officer's designated location where a backup tabulator is located and their right to be present at that location.
 - (d) deliver all the election supplies from the voting station to the Returning Officer's designated location.

- (4) At the Returning Officer's designated location, in the presence of all candidates or scrutineers present, the election officer shall:
 - (a) remove the memory card from the malfunctioning tabulator and insert it into the backup tabulator.
 - (b) feed any the ballots from the "Auxiliary compartment ballots" box into the backup tabulator.
 - (c) turn the tabulator key to the "Open/Close Poll" position and press the button under "Close Polls" to produce the results tape.
 - (d) the tabulator shall print two copies of the results tape and shall transmit the results to the City's results system.
 - (e) deliver the tabulator and other election supplies to the Returning Officer's designated location, if required.
 - (f) If the tabulator memory card has malfunctioned at the close of voting, the election officer shall:
 - (a) obtain a replacement tabulator memory card and insert it into the original or replacement tabulator.
 - (b) produce a zero tape of all totals in the memory card.
 - (c) feed all ballots, including those from the auxiliary compartment, into the tabulator.

6. Production of election results from the Office of the Returning Officer

- (1) At the Returning Officer's designated location, a election officer shall generate the vote results for the Office of the Returning Officer by:
 - (a) inserting the memory card into a tabulator.
 - (b) turning the tabulator key to the "Open/Close Poll" position and pressing the button under "Close Polls" to produce the results tape.
 - (c) the tabulator shall print two copies of the results tape.

7. Election Results

- (1) Election results will be generated by the tabulator by producing a results tape.

8. Post-election testing

- (1) A post-election test shall be conducted by loading blank memory cards into the tabulators and tabulating a pre-determined group of ballots.
- (2) The tabulated results shall be compared against the pre-determined results.
- (2) Any errors detected in the testing of the tabulators shall be identified, corrected and the test repeated until the desired results are achieved.

9. Retention of election documents

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