

1. Background and Authority

- 1.1 On October 13, 2021, Council of the Corporation of the City of Richmond Hill (“Council”) passed By-law 132-21 under Section 263(1)(b) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, (requiring the Richmond Hill City Clerk to conduct a By-election to fill a vacancy in the Office of Mayor (the “2022 By-election),
- 1.2 Pursuant to Section 11 of the *Municipal Elections Act, 1996*, S.O., 1996, c.32, as amended (the “Act”), the City Clerk (“Returning Officer”) is responsible for conducting elections (including By-elections) in the City of Richmond Hill.
- 1.3 Subsection 42(1)(a) of the Act provides that a municipal Council may enact a by-law authorizing the use of voting and vote-counting equipment such as voting machines, voting recorders or optical scan vote tabulators;
- 1.4 On June 9, 2021, Council enacted By-law 74-21, authorizing the use of optical scan vote tabulators for all municipal elections and by-elections held in the City of Richmond Hill.
- 1.5 Subsection 42(1)(b) of the Act provides that a municipal Council may enact a by-law authorizing voters to use an alternative voting method that does not require voters to attend at a voting place in order to vote.
- 1.6 Subsection 42(2)(b) of the Act provides that a by-law passed under Section 42(1) of the Act applies to a By-election if the by-law is passed more than 60 days before voting day
- 1.7 On October 13, 2021 Council of the Corporation of the City of Richmond Hill enacted By-law 133-21 authorizing the use of alternative voting methods, namely Internet Voting (also known as online voting), as an additional voting method (in addition to Vote Tabulators) for the purpose of voting in the 2022 By-election.
- 1.8 Clause 42(3)(a)(i) of the Act requires the Returning Officer to establish procedures and forms for the use of any voting and vote-counting equipment such as voting machines, voting recorders or optical scan vote tabulators.
- 1.9 Paragraph 42(4)1.ii of the Act requires the Returning Officer to establish the procedures referred to in paragraph 1.8 at least 60 days before the first day on which any voter can vote in a By-election.

2. Definitions

The definitions applicable to these Procedures are included in Appendix “A”.

3. Application of Procedures

- 3.1 These Procedures shall apply to the 2022 By-election.
- 3.2 The procedures only apply to the use of Vote Tabulators in the 2022 By-election. The use of Internet Voting shall be subject to the Internet Voting Procedures.
- 3.3 The Declaration of Emergency shall apply to these Procedures, and:
 - (a) In accordance with Section 53(2) of the Act, on declaring an emergency, the Returning Officer shall make such arrangements as he or she considers advisable for the conduct of the election; and
 - (b) In accordance with Section 53(3) of the Act, the arrangements made by the Returning Officer, if they are consistent with the principles of this Act, prevail over anything in the Act and the Regulations made under the Act.
- 3.4 In accordance with Section 12 of the Act, the Returning Officer may provide for any matter or procedure that is not otherwise provided for in the Act or regulation, and, in the Returning Officer's opinion, is necessary or desirable for conducting the election.
- 3.5 Where these Procedures do not specifically address a matter, the election to which these procedures apply shall be conducted in accordance with the principles of the Act.
- 3.6 It is well established that the Principles of the Act are:
 - (a) The secrecy and confidentiality of the vote is paramount;
 - (b) The Election should be fair and non-biased;
 - (c) The Election should be accessible to all Eligible Voters;
 - (d) The integrity of the process should be maintained throughout the Election;
 - (e) There is to be certainty that the results of the Election reflect the votes cast;
 - (f) Eligible Voters and Candidates should be treated fairly and consistently; and
 - (g) A proper majority vote decides the election by ensuring, so far as reasonably possible, that valid votes be counted and invalid votes be rejected.
- 3.7 The Returning Officer may appoint Designated Election Officials for the purposes of implementing these Procedures and may designate their titles and duties. Such appointments shall normally be in writing, but may, under the authority of Declaration of Emergency, be made by any other means deemed appropriate by the Returning Officer. Any oath required of any Designated Election Official may, under the authority of Declaration of Emergency, be administered in-person, electronically, or by any other means deemed appropriate by the Returning Officer.
- 3.8 These procedures are subject to change as a result of the Declaration of Emergency, and as prescribed in Section 53 of the Act.
- 3.9 These Procedures may be amended as deemed necessary by the Returning Officer. Copies of the revised Procedures shall be provided to all Candidates electronically via email.

4. Paper Ballots

- 4.1 The Ballot shall include the names of each Candidate listed in alphabetical order by surname or single name.
- 4.2 A rectangular box, with an arrow pointing to each candidate's name, shall appear on the Ballot to the right of each candidate's name as the Designated Voting Space for the marking of the Ballot.
- 4.3 There shall appear on the Ballot an area where the Designated Election Official shall enter his or her initials.
- 4.4 There shall appear on the Ballot an area where the Designated Election Official may enter a Voting Subdivision number.
- 4.5 There shall appear on the Ballot timing marks that are interpreted by the Vote Tabulator to verify that the document being processed is a valid Ballot.
- 4.6 There shall appear instructions on the Ballot that direct the Voter to vote by filling in the Designated Voting Space.
- 4.7 The type of Ballot to be used will be programmed into the Vote Tabulator.

5. Vote Tabulators - Deployment

- 5.1 Each Voting Centre shall have at least one Vote Tabulator for the purpose of scanning Ballots and tabulating votes.
- 5.2 Subject to Section 14, the same Vote Tabulators assigned to a Voting Centre will be used on each day of the Tabulator Voting Period.
- 5.3 Notwithstanding Section 5.1, and subject to Section 5.4, the Returning Officer may designate that one Vote Tabulator be used for two or more different Special Voting Locations.
- 5.4 Notwithstanding Section 5.3 or anything else to the contrary, having regards for the COVID-19 Pandemic and pursuant to the authority of the Declaration of Emergency, the Returning Officer may determine that voting at a Special Voting Location shall be conducted by Internet Voting only, according to the Internet Voting Procedures, and may, at the Returning Officer's sole discretion, establish special policies and/or procedures for voting at a Special Voting Location.

6. Vote Tabulators - Programming

- 6.1 Vote Tabulators shall be programmed so that a printed record can be produced of the number of votes cast for each Candidate.
- 6.2 Vote Tabulators shall be programmed so that an audible beeping sound indicates to the Designated Election Official that one of the following Ballot errors have been detected by the Vote Tabulator and the Ballot is being returned for re-examination by the Voter:
 - (a) Designated Election Official's initials are missing;

- (b) Blank Ballot;
 - (c) Over-voted Ballot;
 - (d) Ambiguously Marked Ballot;
 - (e) Misread Ballot; or,
 - (f) Invalid Ballot
- 6.3 Vote Tabulators will inform the Voter and Designated Election Official about the encountered Ballot error and prompt for acceptance (CAST button) or rejection (RETURN button) of the Ballot. The Designated Election Official shall follow the voting procedures outlined in Section 11 for the handling of all Ballot scenarios.

7. Voter Tabulators - Testing

- 7.1 Prior to the Voting Period, the Returning Officer shall conduct logic and accuracy testing (“L&A Testing” or “L&A Test”) of all Vote Tabulators to be used in the election, including replacement Vote Tabulators, to ensure that they will accurately count the votes cast for all Candidates and operate as programmed. The Returning Officer shall give notice of the date, time and location of L&A Testing to Candidates and the public.
- 7.2 The L&A Test shall be conducted by:
- (a) Powering up the Vote Tabulator.
 - (b) Loading the Memory Cards into the Vote Tabulators.
 - (c) Opening the Poll.
 - (d) Printing a Zero Report.
 - (e) Tabulating a pre-audited group of Ballots including Ballots that fall into each of the categories of Ballots described in Section 6.2 and Ballots on which are recorded a pre-determined number of votes for each Candidate.
 - (f) Printing the results from the Vote Tabulators.
 - (g) Closing the Poll.
 - (h) Reading the Memory Cards and testing the tally and reporting application.
 - (i) Uploading results to a test version of the results reporting system.
 - (j) Comparing the output of the tabulation against the pre-audited results.
- 7.3 If the Returning Officer detects any error in the L&A Test, the cause of the error shall be identified and corrected and the test repeated until an errorless test is achieved and verified to the satisfaction of the Returning Officer.
- 7.4 The Returning Officer shall, at the completion of the L&A Test, clear the vote totals from the test Ballots in the Memory Cards and seal the Memory Cards inside the Vote Tabulator.
- 7.5 The Returning Officer shall retain, pursuant to section 88 of the Act, the pre-audited group of Ballots referred to in Section 7.2(e), the results tapes that were produced during the L&A Test and other materials used in the programming and testing of the Vote Tabulators.

- 7.6 The Returning Officer shall not alter or make changes to the materials referred to in Section 7.5.

8. Vote Tabulator Set-up – Day One (January 22, 2022)

- 8.1 The Designated Election Official shall check the Vote Tabulator identification located on the Vote Tabulator to verify it has been assigned to the correct Vote Centre.
- 8.2 The Designated Election Official shall, in the presence of at least one other Designated Election Official, verify that there are no Ballots or other materials present in the Tabulator Stand.
- 8.3 The Designated Election Official shall position the Vote Tabulator on top of the Tabulator Stand, plug-in the Vote Tabulator, and follow instructions provided for powering on the Vote Tabulator.
- 8.4 The Designated Election Official shall verify that the date and time is correct.
- 8.5 The Designated Election Official shall open the poll by selecting OPEN POLL from the administrative menu on the Vote Tabulator.
- 8.6 The Designated Election Official shall, witnessed by at least one other Designated Election Official, confirm that the Vote Tabulator indicates “Ballots Cast: 0”.
- 8.7 If the totals are zero, the Designated Election Official shall print two Zero Reports and shall:
- (a) Remove the first Zero Report from the Vote Tabulator, print and sign their name and display it in a place visible to all within the Vote Centre.
 - (b) Ensure that the second Zero Report remains affixed to the Vote Tabulator until the results are printed by the Vote Tabulator after the close of voting. Without removing the Zero Report, the Designated Election Official shall print and sign their name on the Zero Report.
- 8.8 If the totals are not zero for all Candidates, the Designated Election Official shall immediately notify the Returning Officer and shall direct Voters to another Vote Tabulator at the same Vote Centre, or conduct the vote using the Auxiliary Compartment until the Vote Tabulator is made operational or the Returning Officer provides another Vote Tabulator to the Vote Centre. If a replacement Vote Tabulator is used, Sections 8.1 to 8.7 of these procedures shall be carried out for the replacement Vote Tabulator.
- 8.9 If the totals are zero, the Designated Election Official shall commence the voting process as outlined in Section 11.

9. Vote Tabulator Set-up – Day Two (January 23, 2022) and Voting Day (January 24, 2022)

- 9.1 On each subsequent day, the Designated Election Official shall open the poll in the following manner:
- (a) Check the Vote Tabulator identification located on the Vote Tabulator to verify it has been assigned to the correct Vote Centre.

- (b) In the presence of at least one other Designated Election Official, verify that there are no Ballots or other materials present in the Tabulator Stand.
 - (c) Remove any seals from the Vote Tabulator to allow the processing of Ballots.
 - (d) Position the Vote Tabulator on top of the Tabulator Stand and follow the instructions provided for powering the Vote Tabulator.
 - (e) Verify that the date and time is correct.
 - (f) Verify that the number of Ballots cast displayed on the Vote Tabulator is the same number of Ballots cast as reported by the Designated Election Official from the previous day's voting.
 - (g) Select OPEN POLL and then select CONFIRM to resume voting and add results on the Vote Tabulator.
- 9.2 The Vote Tabulator will automatically print a Status Tape once the Designated Election Official has selected CONFIRM to resume voting and add results on the Vote Tabulator. This Status Tape is to remain affixed to the Vote Tabulator and no additional copies are to be printed.
- 9.3 The Designated Election Official shall initial the Status Tape at the opening of each of Day Two and Voting Day of the Tabulator Voting Period.
- 9.4 All Status Tapes shall remain affixed to the Vote Tabulator until the results report is generated at the close of voting on Voting Day.
- 9.5 Commence the voting process as outlined in Section 11.

10. Vote Tabulator Set-up and Closing – Special Voting Locations

- 10.1 Where a Vote Tabulator is assigned to more than one Special Voting Location, the Designated Election Official shall follow the procedures in Section 8 when setting up the Vote Tabulator at the first Special Voting Location.
- 10.2 Where a Vote Tabulator is assigned to more than one Special Voting Location, the Designated Election Official shall follow the Procedures in Section 9 when setting up the Vote Tabulator at each subsequent Special Voting Location.
- 10.3 Where a Vote Tabulator is assigned to one or more Special Voting Locations, the Designated Election Official shall follow the Procedures in Section 12 when closing the Vote Tabulator at each and every Special Voting Location. For greater certainty, votes cast at a Special Voting Location shall be tabulated at Elections Headquarters.

11. Voting Procedures

- 11.1 The Returning Officer shall delegate to a Designated Election Official the authority to place the appropriate Voting Subdivision number on the Ballot, initial the Ballot, demonstrate how to mark the Ballot, issue the Ballot to a Voter in a Secrecy Folder and provide them with a Ballot Marking Pen.
- 11.2 Upon receiving the Ballot, the Voter shall:
- (a) Proceed to the Voting Screen; and

- (b) Vote by placing a mark in the desired Designated Voting Space using the Ballot Marking Pen provided. (Where a voter marks a Ballot with any other pen or pencil it is a validly marked Ballot provided that the Vote Tabulator is able to read the Ballot.)
- 11.3 After marking the Ballot, the Voter shall:
- (a) Insert the Ballot into the Secrecy Folder so as to conceal the votes and to expose the initials of the Designated Election Official;
 - (b) Leave the Voting Screen without delay;
 - (c) Deliver the Secrecy Folder containing the Ballot to the Designated Election Official at the designated Vote Tabulator; and
 - (d) Remain with the Designated Election Official until they insert the Ballot into the Vote Tabulator and the Ballot has been accepted.
- 11.4 The Designated Election Official shall, in the presence of the Voter and without removing the Ballot from the Secrecy Folder, verify the initials of the Designated Election Official and insert the Secrecy Folder containing the Ballot, with the initials of the Designated Election Official face down, into the feed area of the Vote Tabulator and slide the Ballot from the Secrecy Folder until the Ballot is drawn into the Vote Tabulator.
- 11.5 Blank Ballot:
- (a) If a Blank Ballot is returned by the Vote Tabulator and the Voter who delivered the Ballot is still present, the Designated Election Official shall:
 - i. Quietly advise the Voter that the Vote Tabulator does not detect any votes in any of the Designated Voting Spaces; and
 - ii. Instruct the Voter to mark the Ballot in accordance with the instructions on the Ballot.
 - (b) If the Voter is not present or declines the opportunity to re-mark the Ballot, the Designated Election Official shall, using the Vote Tabulator select the "CAST" button and cause the Vote Tabulator to accept the Ballot.
- 11.6 Over-Voted Ballot:
- (a) If an Over-Voted Ballot is returned by the Vote Tabulator and the Voter who delivered the Ballot is still present, the Designated Election Official shall:
 - i. Quietly advise the Voter that the Vote Tabulator detects more votes for the office than the Voter is entitled to vote for;
 - ii. Ask the Voter if he or she wishes another Ballot and, if so, select the RETURN button on the Vote Tabulator, fold the Ballot and mark the reverse side of the Ballot "cancelled" and have the Voter return the Ballot to the Designated Election Official who initially issued the Ballot;
 - iii. The Designated Election Official who initially issued the Ballot shall place the Ballot in the Cancelled Ballot envelope; and,

- iv. The Designated Election Official shall issue a replacement ballot to the Voter, and instruct the Voter to mark the Ballot in accordance with the instructions on the Ballot.
- (b) If the Voter is not present or declines the opportunity to mark another Ballot, the Designated Election Official shall, using the Vote Tabulator select the “CAST” button and cause the Vote Tabulator to accept the Ballot.

11.7 Misread Ballot:

- (a) If a Ballot is returned by the Vote Tabulator because it is damaged or defective or is otherwise unreadable by the Vote Tabulator and the voter who delivered the Ballot is still present, the Designated Election Official shall re-insert the Ballot into the feed area of the Vote Tabulator. If rejected again the Designated Election Official shall:
 - i. Quietly advise the Voter that the Ballot cannot be processed by the Vote Tabulator;
 - ii. Ask the Voter if he or she wishes another Ballot and, if so, select the RETURN button on the Vote Tabulator, fold the Ballot and mark the reverse side of the Ballot “Cancelled” and have the Voter return the Ballot to the Designated Election Official who initially issued the Ballot;
 - iii. The Designated Election Official who initially issued the Ballot shall place the Ballot in the Cancelled Ballot envelope; and
 - iv. The Designated Election Official shall issue a replacement ballot to the Voter, and instruct the Voter to mark the Ballot in accordance with the instructions on the Ballot.
- (b) If the Voter declines the opportunity to mark another Ballot, the Designated Election Official shall fold the Ballot and mark the reverse side of the Ballot “Declined”, return the Ballot to the Designated Election Official who initially issued the Ballot to the Voter so that it can be placed in the Declined Ballot envelope.
- (c) If a Misread Ballot is returned by the Vote Tabulator and the Voter who delivered the Ballot is not present, the Designated Election Official shall place the Ballot in the Special Circumstances Envelope and place the envelope in the Auxiliary Compartment.

11.8 Ambiguously Marked Ballot

- (a) If a Ballot with an Ambiguous Mark is returned by the Vote Tabulator and the Voter who delivered the Ballot is still present, the Designated Election Official shall:
 - i. Quietly advise the Voter that in at least one of the Designated Voting Spaces on the Ballot, the mark which has been made is not sufficiently dark or complete to allow the Vote Tabulator to determine with certainty the Voter’s intention;
 - ii. Return the Ballot to the Voter; and

- iii. Instruct the Voter to mark the Ballot in accordance with the instructions on the Ballot, or offer to replace the Ballot with a new Ballot.
- (b) If the voter requests a new Ballot the Designated Election Official shall:
 - i. Select the RETURN button on the Vote Tabulator, fold the Ballot and mark the reverse side of the Ballot “Cancelled” and have the Voter return the Ballot to the Designated Election Official who initially issued the Ballot;
 - iv. The Designated Election Official who initially issued the Ballot shall place the Ballot in the Cancelled Ballot envelope; and
 - v. The Designated Election Official shall issue a replacement ballot to the Voter, and instruct the Voter to mark the Ballot in accordance with the instructions on the Ballot.
- (c) If the Voter declines the opportunity to mark another Ballot, the Designated Election Official shall fold the Ballot and mark the reverse side of the Ballot “Declined”, return the Ballot to the Designated Election Official who initially issued the Ballot to the Voter so that it can be placed in the Declined Ballot envelope.

11.9 Ballot Missing Initial of Designated Election Official

- (a) If a Ballot is returned by the Vote Tabulator because the Vote Tabulator has detected that the Ballot is missing the initials of the Designated Election Official and the Voter who delivered the Ballot is still present, the Designated Election Official shall:
 - i. Quietly advise the Voter that the initials of the Designated Election Official are missing and that the Ballot cannot be processed without the initials of the Designated Election Official;
 - ii. Direct the Voter to the Designated Election Official who issued the Ballot to obtain the required initials; and
 - iii. Process the corrected Ballot once it is returned by the Voter with the required Designated Election Official’s initials.
- (b) If the Voter who delivered the Ballot is not present, and the Ballot is missing the Designated Election Official Initials, the Ballot shall be placed in the Special Circumstances Envelope in the Auxiliary Compartment and re-seal the Auxiliary Compartment.

11.10 Notwithstanding anything in Section 11 to the contrary, having regard for the COVID-19 pandemic, and pursuant to the authority of the Declaration of Emergency, the Returning Officer may provide that no Secrecy Folder shall be required for the movement of Ballots between a Designated Elections Officials and Voter. If so determined, the Returning Officer will provide direction to Designated Election Officials’ to use their best efforts to protect the secrecy of the vote, such as holding marked Ballots upside down or close to a body so as to conceal marks on the Ballot.

12. Procedure for Closing Vote Centre – Day One and Day Two

- 12.1 The procedures in this Section 12 shall be followed by the Designated Election Official at the close of voting on Day One and Day Two only.
- 12.2 The Designated Election Official shall, at the end of each of Day One and Day Two, check the Auxiliary Compartment for Ballots to ensure all Ballots have been processed, and shall immediately:
 - (a) Process the Ballots, if any, from the Auxiliary Compartment in accordance with Section 11.
 - (b) If there are Ballots in the Auxiliary Compartment that cannot be processed, the Ballot(s) shall be placed in the Special Circumstances envelope and the Designated Election Official shall follow the procedures in Section 15.
 - (c) Record the total number of Ballots cast on the Continuous Ballot Count form as displayed on the Vote Tabulator.
 - (d) Ensure that the Zero Report and any Status Tapes remain affixed to the printer of the Vote Tabulator.
 - (e) Using the security key provided, select POWER DOWN on the Vote Tabulator and unplug the Vote Tabulator.
 - (f) Place a seal over the feeder slot of the Vote Tabulator.
 - (g) Remove the Vote Tabulator from the Tabulator Stand and place the Vote Tabulator in the carrying case or box provided
 - (h) Remove all voted Ballots from the Tabulator Stand and place them in one or more Ballot Transfer Containers marked with the date, Vote Centre, and Vote Tabulator Identification, and seal the Ballot Transfer Container(s) to ensure that they cannot be re-opened without breaking the seal(s).
 - (i) Personally deliver the Transfer Container(s), Vote Tabulators and blank Ballots to a location designated by the Returning Officer.

13. Procedure for Closing Vote Centre – Voting Day

- 13.1 After the close of voting on Voting Day, the Designated Election Official shall:
 - (a) Check the Auxiliary Compartment for any Ballots to ensure all Ballots have been processed by Vote Tabulator.
 - (b) If there are any Ballots stored in the Auxiliary Compartment they shall be processed in accordance with Section 11 of these procedures. The procedures in Sections 13.1(c) to 13.1(j) shall only be completed when there are no more Ballots in the Auxiliary Compartment to be processed.
 - (c) Remove the Special Circumstances Envelope, if any, from the Auxiliary Compartment in accordance with the procedure outlined in Section 15. If there are any Ballots in a Special Circumstances Envelope, the Procedures in Sections 13.1(d) to 13.1(g) shall not be completed at the Vote Centre.
 - (d) Using the security key provided, select CLOSE POLL on the Vote Tabulator.

- (e) Print two copies of the Results Tape from the Vote Tabulator indicating the votes cast for each Candidate and:
 - i. Place the first copy of the Results Tape that includes the Zero Report printout in the designated envelope.
 - ii. Post the second copy of the Results Tape in the Vote Centre;
 - (f) Ensure all Cancelled and Declined Ballots are sealed in the designated envelopes;
 - (g) Remove the Vote Tabulator from the Tabulator Stand and place the Vote Tabulator in the carrying case or box provided.
 - (h) Remove the voted Ballots from the Tabulator Stand and place them in one or more Ballot Transfer Containers with the Cancelled and Declined Ballots envelopes.
 - (i) Seal the Ballot Transfer Containers.
 - (j) Ensure that the Ballot Transfer Containers are marked with the date, Vote Centre, and Vote Tabulator Identification.
- 13.2 The Designated Election Official shall place all other election supplies in the Supply Carrier and seal it with the seal provided to ensure it cannot be re-opened without breaking the seal.
- 13.3 The Designated Election Official shall personally deliver the Vote Tabulator, the envelope containing the Results Tape, the sealed Ballot Transfer Container(s) and sealed Supply Carrier immediately to the location and person designated by the Returning Officer.

14. Vote Tabulator – Malfunction Procedures

- 14.1 If a Vote Tabulator at a Vote Centre fails to operate:
- (a) The Designated Election Official shall allow voting to continue by directing voters to another Vote Tabulator at the same Vote Centre, or by inserting a marked Ballot from the Secrecy Folder, with the initials of the Designated Election Official face down, directly into the Auxiliary Compartment in full view of the Voter.
 - (b) Once the Vote Tabulator becomes operational the Designated Election Official shall insert the Ballots stored in the Auxiliary Compartment, if any, into the Vote Tabulator.
 - (c) The Designated Election Official shall seal the Auxiliary Compartment with tape provided for that purpose when it is not in use.
- 14.2 At a Vote Centre on Voting Day if 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 Designated Election Official shall:
- (a) Notify the Designated Election Official for further instructions.
 - (b) Remove and place any Ballots from the Auxiliary Compartment in the Auxiliary Compartment Ballots envelope and seal the envelope.

- (c) Place all Cancelled and Declined Ballots in the appropriate envelopes, seal the envelopes and place the envelopes in a Ballot Transfer Container.
 - (d) Advise all Candidates and/or scrutineers present in the Vote Centre that:
 - i. The Returning Officer will designate a time and a place for the tabulation of the ballots, and notify the candidates of that date and place; or,
 - ii. The Ballots may be tabulated by the Returning Officer at the designated location immediately after they are received from the Vote Centre.
 - (e) Candidates, or one scrutineer, are permitted to be present when the ballots are tabulated.
 - (f) At the designated location, and in the presence of all Candidates and/or scrutineers, the Returning Officer shall remove the Memory Cards from the inoperable Vote Tabulator, insert the Memory Cards into a back-up Vote Tabulator and feed the Ballots from the Auxiliary Compartment Ballots envelope into the back-up Vote Tabulator.
 - (g) The Returning Officer shall follow the procedure to close the Vote Tabulator as outlined in Section 13.
- 14.3 If the Designated Election Official is unable to complete the tabulation of the votes because a Memory Card has malfunctioned, the Designated Election Official shall:
- (a) Notify the Designated Election Official for further instructions.
 - (b) Once replacement Memory Cards have been provided, insert the Memory Cards into a back-up Vote Tabulator.
 - (c) Follow the procedures set out in Section 8 to ensure that the totals on the replacement Memory Cards are zero for all candidates.
 - (d) Remove all Ballots from the Tabulator Stand and feed the Ballots into the Vote Tabulator following the voting instructions outlined in Section 11.
 - (e) If the Vote Tabulator rejects a Ballot that has been retrieved from the Tabulator Stand for any reason other than the Ballot is Ambiguous or Misread, the Designated Election Official shall, using the Vote Tabulator “CAST” button cause the Vote Tabulator to accept the Ballot.
 - (f) If the Vote Tabulator rejects a Ballot that has been retrieved from the Tabulator Stand because of an Ambiguous Mark or Misread, the Designated Election Official shall place the Ballots in the Special Circumstances envelope and follow the procedures in Section 15.
- 14.4 If the Designated Election Official is unable to print the results from the Vote Tabulator they shall:
- (a) Remove and reinstall the report tape ensuring it is installed properly;
 - (b) Wait for the “Make sure paper is loaded and everything is OK” message to be displayed;
 - (c) Press the “OK” button; and

- (d) If the problem still exists, contact the Designated Election Official, or the Returning Officer immediately for further instructions.
- 14.5 If the Designated Election Official experiences other technical issues related to the Vote Tabulator in producing results, they shall immediately contact the Designated Election Official for further instructions.
- 14.6 Having regards for the COVID-19 pandemic, and pursuant to the authority of the Declaration of Emergency, the Returning Officer may provide that the movement of Ballots between a Designated Elections Official and Voter shall not, notwithstanding anything in this Section 14 to the contrary, include the use of any Secrecy Folder to conceal the Ballot. If so determined, the Returning Officer will provide direction to Designated Election Officials' to use their best efforts to protect the secrecy of the vote, such as holding marked Ballots upside down or close to a body so as to conceal marks on the Ballot.

15. Special Circumstances Envelope

- 15.1 The Returning Officer will determine the time and place for the review of any Ballots in a Special Circumstances Envelope, and shall notify the affected candidates who may be present at the time of examination so long as they can attest that they are unaware of the identity of the person(s) who marked the affected Ballot(s).
- 15.2 If there are any Ballots in a Special Circumstances Envelope, the Designated Election Official shall:
 - (a) Ensure that all candidates and or scrutineers present in the Vote Centre have been advised that the Ballot(s) in the Special Circumstances Envelope will be examined by the Returning Officer, normally within 24 hours of the close of the voting.
 - (b) Remove the Special Circumstances Envelope from the Auxiliary Compartment, seal the envelope, and request that any candidates and/or scrutineers present sign the envelope;
 - (c) The Designated Election Official shall place the Special Circumstances Envelope in the container used to transport the Vote Tabulator, so that it rests on the Vote Tabulator itself;
 - (d) Place any Ballots that have been tabulated in one or more Ballot Transfer Containers, along with any Cancelled or Declined Ballot envelopes, seal the Ballot Transfer Containers so that they cannot be reopened without breaking the seal; and,
 - (e) Deliver the Tabulator and Ballot Transfer Containers to the location designated by the Returning Officer.
- 15.3 At the designated Location and time the Returning Officer shall remove all Ballots from the Special Circumstance Envelope and determine if the Ballots have valid votes or are a Rejected Ballot.
- 15.4 The determination of valid votes by the Returning Officer shall be conducted in the following manner:

- (a) In full view of any candidates or scrutineers present, the Returning Officer shall determine valid votes on a Ballot, having regards to marks made within the Designated Voting Spaces;
- (b) Upon completion of the review of the Ballots, the Ballots shall be returned to the Special Circumstance Envelopes, sealed and placed with the Ballot Transfer Container.

- 15.5 The number of Valid Votes as determined by the Returning Officer in accordance with this Section 15 will be added to the unofficial results.
- 15.6 The total number of Rejected Ballots shall be reported by the Returning Officer.

16. Special Voting Location and Unofficial Results

- 16.1 Ballots cast at a Special Vote Centre will be tabulated on Voting Day at a time and location determined by the Returning Officer.
- 16.2 The Returning Officer will provide notice to all Candidates of the time and place where Ballots cast at a Special Vote Centre will be tabulated. Candidates or one scrutineer for each candidate may be present during the tabulation of the unofficial results.
- 16.3 The results of any Ballot Cast at a Special Voting Location will be tabulated in accordance with the procedures in Section 13 with necessary modifications.

17. Unofficial Results and Official Results Reporting

- 17.1 Tabulated votes from internet voting and tabulator voting will be compiled in the City's tally and reporting system commencing at the close of voting on Voting Day by uploading the results stored on Memory Cards from every Vote Tabulator, at a location designated by the Returning Officer.
- 17.2 Results from Internet Voting conducted in accordance with Internet Voting Procedures will be combined with the results from the votes cast using Tabulators in the City's tally and reporting system.
- 17.3 The Returning Officer will review, validate and publish unofficial vote results from the City's tally and reporting system to the City's website. Web streamed unofficial vote results will be displayed at a public venue determined by the Returning Officer and communicated to the Public and Candidates.
- 17.4 Official vote results will be made available to the public and Candidates by the Returning Officer in accordance with the provisions of the Act.

18. Recounts

- 18.1 If a recount is held, the recount shall be held in accordance with these procedures subject to the necessary modifications acknowledging that the tabulation of votes will occur at a single location and in the absence of voters. The votes shall be counted in the same manner as the original count, using Vote Tabulators.
- 18.2 If a recount is held, those persons present at the recount are not entitled to examine each ballot before it's inserted into a Vote Tabulator.

19. Scrutineers

- 19.1 Notwithstanding anything in these procedures to the contrary, having regards for the situation of the COVID-19 pandemic at any given time during the 2022 By-election, and pursuant to the authority of the Returning Officer under the Declaration of Emergency, the Returning Office may implement any policy and/or procedures, and amend the same as determined by the Returning Office, in respect to the in-person participation of Scrutineers for any matter under these Procedures.
- 19.2 The procedures referred to in Section 19.1 may provide that no Scrutineer shall be permitted to physically attend any facilities used by the Election Management Team or any Vote Centre, except as may otherwise be required under any other procedure applying to the 2022 By-election as approved by the Returning Officer.
- 19.3 No campaigning or any campaign material is permitted at any Vote Centre. For the purpose of this paragraph, Vote Centre includes the entire property on which the Vote Centre is situated, including on or in any structure on the property, and the public land (such as parks, sidewalks, boulevards and highways) immediately adjacent to the property. Campaigning means any activity (other than Voting) by a Candidate (including any person under direction of a Candidate), or Third-party Advertiser. Campaign material includes, but is not limited to: (a) campaign signs; (b) campaign decals or signs placed anywhere that is visible on a vehicle; (c) brochures; (d) buttons; and, (e) clothing that is the colour associated with a particular candidate as evidenced by any other campaign material as

20. No Voting Proxy

- 20.1 In accordance with Subsection 42(5) of the Act, the provisions of Section 44 of the Act, Appointment of voting proxy, shall not apply to the 2022 By-election.
- 20.2 Notwithstanding the generality of paragraph 20.1, and for greater certainty, no voting proxy shall be issued for the 2022 By-election which is being conducted by both vote counting equipment, namely Vote Tabulators, and alternative voting methods, namely Internet Voting and Vote Tabulators.

21. Accessible Voting

- 21.1 In accordance with the Act, the Returning Officer will have regard to the needs of Voters with disabilities.
- 21.2 Any Designated Election Official who has taken an oath or affirmation of secrecy from the Returning Officer may assist a Voter in any manner if he or she is unable to attend to a Voting Screen independently.
- 21.3 A Voter may request assistance from a friend to mark his or her Ballot properly, provided they have taken an oath or affirmation of secrecy from the Designated Election Official.

22. Retention of Documents and Material

- 22.1 The Returning Officer shall retain the Memory Cards, test materials, Ballots and any other records in the same manner as is provided for in accordance with Section 88 of the Act.

23. Offences and Penalties

- 23.1 In accordance with the Act, a person is guilty of an offence and liable, upon conviction, to a financial penalty if they:
- (a) Vote without being entitled to do so;
 - (b) Vote more than once in this By-election;
 - (c) Induce or procure a person to vote when that person is not entitled to do so;
 - (d) Provide false or misleading information to a person whom this Act authorizes to obtain information;
 - (e) Directly or indirectly,
 - i. offer, give, lend, or promise or agree to give or lend any valuable consideration, in connection with the exercise or non-exercise of an Eligible Voter's vote;
 - ii. advance, pay or cause to be paid money intending that it be used to commit an offence referred to in clause (i), or knowing that it will be used to repay money used in that way;
 - iii. give, procure or promise or agree to procure an office or employment in connection with the exercise or non-exercise of an Eligible Voter's vote;
 - iv. apply for, accept or agree to accept any valuable consideration or office or employment in connection with the exercise or non-exercise of an Eligible Voter's vote;
 - v. attempt to do any of the above.

24. Emergency

- 24.1 In accordance with the Act, the Returning Officer may declare an emergency if they are of the opinion that circumstances have arisen that are likely to prevent the election being conducted in accordance with the principles of the Act.
- 24.2 Upon declaring an emergency, the Returning Officer is authorized to make any arrangements they consider advisable for the conduct of the election.
- 24.3 The arrangements made by the Returning Officer, if they are consistent with the principles of the Act, prevail over anything in the Act and the regulations made under it.
- 24.4 If made in good faith, the Returning Officer's declaration of emergency and arrangements shall not be reviewed or set aside on account of unreasonableness or supposed unreasonableness.
- 24.5 The emergency continues until the Returning Officer declares that it has ended.
- 24.6 In response to the COVID-19 coronavirus pandemic, the Returning Officer Declared an Emergency under the Act on October 14, 2021. A copy of the Declaration of Emergency is reproduced as Appendix "B".

Approval:

“Signed version on file in the Office of the Clerk”

Stephen M.A. Huycke
City Clerk & Returning Officer
Richmond Hill By-election 2022

Effective Date: November 17, 2021
Version: 1.0
Version Approval Date: November 17, 2021
Original Approval Date: November 17, 2021

Appendix “A” Definitions

In these Procedures,

- “2022 By-election” means the by-election being conducted under Section 65 of the Act to fill the vacancy in the Office of Mayor.
- “Act” means the *Municipal Elections Act, 1996*, S.O., 1996, c.32, as amended.
- “Ambiguously Marked Ballot” means a Ballot that the Vote Tabulator reports as having one or more marks that are not capable of being detected with certainty and which will not be accepted by the Vote Tabulator.
- “Auxiliary Compartment” means the front compartment of the Tabulator Stand where marked Ballots are temporarily stored in the event a Vote Tabulator fails to operate.
- “Ballot” means a paper Ballot which shows the names of all Candidates that will be tabulated using Vote Tabulators.
- “Ballot Box” means the secure container in which voted Ballots are deposited, firstly being the Tabulator Stand, and after the close of the Vote Centre, the Ballot Transfer Container(s). It also includes containers into which voted Ballots are deposited at Vote Centres when Vote Tabulators are not immediately utilized, and any Supply Box or Supply Carriers so designated by the Returning Officer deemed to be an extension of the Ballot Box after the close of a Vote Centre.
- “Ballot Marking Pen” means the pen provided to the Voter by the Designated Election Official for the purposes of marking a Ballot in the Designated Voting Space.
- “Ballot Transfer Container” means a box, or other container designated by the Returning Officer, that can be sealed and used by a Designated Election Official to transfer voted Ballots that have been tabulated by the Vote Tabulator from a Vote Centre to another location or person designated by the Returning Officer. A Ballot Transfer Container that contains voted Ballots is deemed to be part of the Ballot Box.
- “Blank Ballot” means a Ballot without any marks in any of the Designated Voting Spaces.
- “Cancelled Ballot” means a Ballot that a Voter has returned to the Designated Election Official for replacement with a new Blank Ballot.

“Candidate”	means a person who has filed a Nomination Paper to fill the vacancy in the Office of Mayor that has been certified by the Returning Officer in accordance with Section 35 of the Act.
“City”	means the Corporation of the City of Richmond Hill.
“City Clerk”	means the person appointed as Clerk of the City under Subsection 228(1) of the <i>Municipal Act, 2001</i> , S.O. 2001, c.25, who is the Returning Officer by virtue of that appointment and responsible for conducting elections pursuant to Section 11 of the Act, or his or her designate.
“Day One”	means the first day of the Tabulator Voting Period, being January 22, 2022.
“Day Two”	means the second day of the Tabulator Voting Period, being January 23, 2022.
“Declaration of Emergency”	means, in respect to the 2022 By-election, the declaration of emergency issued by the Returning Officer pursuant to Section 53 of the Act on October 14, 2021 in response to the COVID-19 coronavirus pandemic (reproduced in Appendix “B”).
“Declined Ballot”	means a Ballot that a Voter returns to the Designated Election Official because the Voter has decided not to vote, and includes a Ballot that a voter declines to re-mark if the Ballot marked by the Voter cannot be read by the Vote Tabulator. Declined Ballots are not processed by the Vote Tabulator, and are placed in a designated envelope.
“Designated Election Official”	means a person designated by the Returning Officer to assist in the conduct of 2022 By-election.
“Designated Voting Space”	means the space within the box appearing to the right of a Candidate’s name on a Ballot.
“Election Reporting System”	means the hardware and software used to capture voting results recorded on the Memory Card in a Vote Tabulator which are then combined with the voting results of the other Tabulators to determine the total number of votes cast for each Candidate.
“Election Management Team”	means the Returning Officer, and persons designated by the Returning Officer as Assistant Returning Officers, in charge of ensuring the integrity of the election and the voting results, as well as guaranteeing the secrecy of the votes.
“Internet Voting”	means an alternative voting method by which a Voter casts his/her Ballot using a secure web-based online voting system.

“Internet Voting Procedures”	means the procedures established by the Returning Officer for the use of Internet Voting.
“Invalid Ballot”	means the message generated by the Vote Tabulator identifying the Ballot cannot be accepted by that particular Vote Tabulator.
“LCD Screen”	means a liquid crystal display screen on a Vote Tabulator which generates Ballot processing and Vote Tabulator operating messages and allows a Designated Election Official to perform administrative tasks.
“Mark”	means a mark made in the Designated Voting Space on a Ballot which is sufficiently dark or complete to allow a Vote Tabulator to determine the Voter’s voting intention.
"Memory Card"	means one or more removable compact flash cards that are sealed in a Vote Tabulator for the purpose of storing a record of all tabulated votes and vote totals.
“Misread Ballot”	means a Ballot that will not be accepted by the Vote Tabulator because essential Ballot identification markings cannot be found or the Ballot is damaged, defective or otherwise unreadable.
“Over-voted Ballot”	means a Ballot with more Designated Voting Spaces marked for an office than the Voter is entitled to vote for.
“Rejected Ballot”	means a ballot that is not accepted by the Vote Tabulator because it was improperly marked, including: <ul style="list-style-type: none">a) Over-voted Ballot;b) A ballot marked so that a voter could be identified; andc) A ballot marked in a location prohibited by legislation (i.e. outside the Designated Voting Space).
“Returning Officer”	means the person appointed under the Act to preside over the 2022 By-election, who is the City Clerk.
"Scrutineer"	means a Candidate, or any person appointed by a Candidate in accordance with any rules and procedures established by the Returning Officer, observing any part of the 2022 By-election, including, but not limited to, the testing of the Internet Voting System and Vote Tabulators, the voting at a Voter Centre or Special Voting Location, and the tabulation of any votes cast.

"Secrecy Folder"	means the folder in which a Ballot is placed so as to conceal the names of the Candidates and the marks made by the Voter upon the face of the Ballot but which exposes the initials of the Designated Election Official(s).
"Security Key"	means a key assigned to each Vote Tabulator which allows a Designated Election Official to perform the Vote Tabulators administrative tasks.
"Special Voting Location"	means a Vote Centre in an institution or retirement facility referred to in Section 45(7) of the Act with reduced voting hours as established by the Returning Officer pursuant to Section 46(3) of the Act.
"Special Circumstances Envelope"	means the envelope designated to hold Ballots from an Auxiliary Compartment that have been set aside for examination by the Returning Officer after the close of voting.
"Status Tape"	means the status report printed by the Vote Tabulator when the Vote Tabulator is turned-on and includes the identification of the Vote Centre and the total number of Ballots that have been scanned by the Vote Tabulator.
"Supply Carrier"	means the container(s) used by the Designated Election Official for forms or supplies that is sealed after the polls close on Voting Day. The Supply Carrier is deemed to be an extension of the Ballot Box after the close of Voting.
"Tabulator Stand"	means a secure container in which Ballots are deposited by the Vote Tabulator with two (2) separate compartments with one being a primary compartment for storing voted Ballots tabulated by the Vote Tabulator and the second being an Auxiliary Compartment to be used in the event that the Vote Tabulator is temporarily inoperable. The Tabulator Stand is deemed to be part of the Ballot Box.
"Tabulator Voting Period"	means the period of time that is part of the Voting Period during which a Voter is able to vote using Vote Tabulators, being January 22, 2022 to Voting Day inclusive.
"Vote Anywhere"	means a voter can choose to vote at any one of the twelve designated Vote Centres to cast a ballot.
"Vote Centre"	means a physical location designated by the Returning Officer where a Voter can receive assistance from a Designated Election Official in the use of the Internet Voting System or vote using Vote Tabulators.

"Vote Tabulator"	means a machine that digitally scans a specified area on a Ballot to read vote(s), store the read vote(s), and tabulate voting results so as to: (a) produce a paper record of the votes cast at a Vote Centre; and (b) facilitate the uploading of voting data to a centralized vote compilation system.
"Voter"	means a person who, as of Voting Day, is: a) is a Canadian citizen; b) is at least 18 years old; c) a resident of Richmond Hill or the owner or tenant of land or spouse of such owner or tenant of land; and, d) is not otherwise prohibited from voting.
"Voting Day"	means the day on which the final vote is to be taken in the 2022 By-election (January 24, 2022).
"Voting Period"	means the continuous period of time beginning at 10:00 a.m. on Tuesday, January 18, 2022, and ending at 8:00 p.m. on Voting Day.
"Voting Screen"	means a physical barrier designed to provide privacy to a Voter while they mark their Ballot.
"Voting Subdivision"	means a defined geographical area within the City of Richmond Hill where a Voter resides or is the owner or tenant of land there or the spouse of such owner or tenant of land.
"Zero Report"	means a report printed by a Vote Tabulator at the start of the Tabulator Voting Period that demonstrates that no votes have being recorded for any Candidate prior to the commencement of Voting.

Appendix “B”



2022 By-election

Declaration of Emergency

Municipal Elections Act, 1996 (Section 53)

2022 By-election to fill the vacancy in the Office of Mayor

Whereas, the Richmond Hill City Clerk (the “Clerk”), pursuant to By-law 132-21, passed by Council of the City of Richmond Hill on October 13, 2021, is required to conduct a By-election to fill the vacancy in the Office of Mayor, (the “2022 By-election”);

And whereas, pursuant to clauses 65(4)1 and 65(4)2 of the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, as amended (the “Act”), the Clerk has set Nomination Day for the 2022 By-election to be Friday, December 10, 2021, and Voting Day is on Monday, January 24, 2022;

And whereas subsection 53(1) of the Act provides that the Clerk may declare an emergency if he or she is of the opinion that circumstances have arisen that are likely to prevent the election being conducted in accordance with the Act;

And whereas subsection 53(2) of the Act provides that on declaring an emergency, the Clerk shall make such arrangements as he or she considers advisable for the conduct of the election;

And whereas section 53(3) of the Act provides that the arrangements made by the Clerk, if they are consistent with the principles of the Act, prevail over anything in the Act and the regulations made under it;

And whereas it is well established in law that the principles of the Act are that:

- (a) The secrecy and confidentiality of individual votes is paramount;
- (b) The election should be fair and non-biased;
- (c) The election should be accessible to the voters;
- (d) The integrity of the process should be maintained throughout the election;
- (e) There is to be certainty that the results of the election reflect the votes cast;
- (f) Voters and candidates should be treated fairly and consistently; and
- (g) A proper majority vote decides the election by ensuring, so far as reasonably possible, that valid votes be counted and invalid votes be rejected.

And whereas subsection 53(4) of the Act provides that an emergency declared by the Clerk continues until the Clerk declares that it has ended;

And whereas subsection 53(5) of the Act provides that, if made in good faith, the Clerk’s declaration of emergency and arrangements shall not be reviewed or set aside on account of unreasonableness or supposed unreasonableness;

2022 By-election
Declaration of Emergency
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And whereas, in response to the COVID-19 coronavirus disease (“COVID-19”), the Government of Ontario has declared an *Emergency Management and Civil Protection Act* (the “EMCPA”), and that the Orders 8/21, 25/21, 55/21 and 305/21 under the EMCPA remain in effect;

And whereas, the Government of Ontario enacted the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, S.O. 2020, c. 17*, and has under subsection 2(1) of that Act continued various orders made under the EMCPA that are still in effect;

And whereas regulations made under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020* establish what can generally be described as rules to protect the health and safety of Ontarians;

And whereas, in response to COVID-19, the City of Richmond Hill declared an emergency on March 20, 2020, pursuant to section 4 of the EMCPA, and the declaration of emergency remains in effect;

And whereas, it is reasonable to anticipate that COVID-19 will continue to constitute a significant public health and safety danger that could result in serious harm to persons throughout the period of the 2022 By-election;

And whereas, it is reasonable to anticipate that COVID-19 will likely prevent the 2022 By- election from being conducted in accordance with the Act;

Now therefore, in respect of the 2022 By-election, I, Stephen M.A. Huycke, City Clerk and Returning Officer for the City of Richmond Hill:

1. Do hereby declare that an emergency exists because of the continued outbreak of the COVID-19 coronavirus communicable disease pandemic (“COVID-19 pandemic”); and
2. That this declaration of emergency is made good faith for the sole purpose of ensuring that the 2022 By-election is conducted in accordance with the principles of the Act during the COVID-19 pandemic.

Signed at the City of Richmond Hill, Province of Ontario, this 14th day of October, 2021

“Signed version on file in the Office of the Clerk”

Table of Amendments and Revisions

Version	Version Approval Date	Revisions	Reason
1.0	November 17, 2021	None – Original	