

THE CORPORATION OF THE VILLAGE OF CUMBERLAND

BYLAW NO. 1001

A bylaw to establish various procedures and to provide for the use of an automatic voting system for local government elections and other voting.

The Council of the Corporation of the Village of Cumberland, in open meeting assembled, enacts as follows:

1. This bylaw may be cited as the "Election Procedures Bylaw No. 1001, 2014".

Definitions

2. In this bylaw,

"automated voting system" means an automated system that records and counts votes and processes and stores election results. The system is housed in two hardware components, the vote tabulator and the ballot box and a number of portable ballot boxes into which voted ballots are deposited, where a vote tabulator is not functioning or being used and where the ballots will be counted after the close of voting on general voting day.

"ballot" means a ballot card which may be a composite ballot for two or more elections to be voted for, and/or bylaws or other matters on which the assent of the electors is sought, including all choices available to the electors and containing spaces in which the electors mark their votes.

"ballot account" means an account of ballots prepared in accordance with Section 131 of the Local Government Act.

"ballot box" means the container for ballots that have been marked by electors.

"legible mark" means a mark which fills in the oval provided on the ballot opposite a candidate's name or opposite a question with either a "yes" or "no" oval, that the vote tabulator is able to read and count.

"memory card" means a cartridge unit that plugs into the vote tabulator that contains:

- a) the names of the candidates or questions being voted on;
- b) the alternative "yes" and "no" for each bylaw or other matter on which the assent of the electors is being sought;

and a mechanism to recover and retain information on the number of acceptable marks made for each.

“**portable ballot box**” means a ballot box which is used at a voting place where a vote tabulator is not being used at the time of voting.

“**results tape**” means the printed record generated from a vote tabulator at the close of voting on general voting day which shows:

- a) the number of ballots received;
- b) the number of ballots accepted;
- c) the number of ballots rejected;
- d) the number of votes for each candidate; and
- e) if applicable, the number of votes for and against each bylaw or other matter on which the assent of the electors is sought.

“**secrecy sleeve**” means an open-ended folder or envelope used to cover ballots to conceal the choices made by each elector.

“**vote tabulator**” means the part of an automated voting system into which the ballots are inserted, scanned, and the number of votes for each candidate and for each referendum question are recorded.

“**voting book**” means the book for recording the names of electors.

PART 1 VOTER REGISTRATION

3. For the purposes of all local elections and other voting under the *Local Government Act*, a person may register as an elector only at the time of voting.

PART 2 VOTING OPPORTUNITIES

Advance Voting Opportunities

4. In addition to the required advance voting opportunity, an advance voting opportunity is established on the fourth day before general voting day.

[Bylaw 1169]

Special Voting Opportunities

6. *[Repealed by Bylaw 1169]*
7. *[Repealed by Bylaw 1169]*
8. *[Repealed by Bylaw 1169]*
9. *[Repealed by Bylaw 1169]*

PART 3 USE OF VOTING MACHINES

10. The chief election officer may conduct any local government election or other voting using an automated voting system.
11. If an automated voting system is used, the chief election officer must conduct a test of the automated voting system before each local government election or other voting and must be satisfied that it is in good working order.
12. As soon as the test of the automated voting system is completed, the chief election officer must secure the memory cards and ensure that they will remain secured until the election or other voting.

Form of Ballot

13. The chief election officer may provide for use of composite ballots on which an elector's votes on two or more elections or other voting may be indicated.
14. If a ballot is in the form of a composite ballot, each portion of the ballot that deals with a single election is to be considered a separate ballot.
15. Each ballot shall contain a space for a "legible mark" opposite each candidate's name, or opposite "yes" or "no" when the vote is on a bylaw or other matter on which the assent of the electors is sought.

Demonstration of Voting Procedures

16. The chief election officer or the presiding election official for each voting place, as applicable, must ensure that election officials demonstrate voting procedures, issue ballots and accept marked ballots at the vote tabulator and ballot box.
17. Each elector is entitled to a demonstration of voting procedures from an election official assigned to perform such demonstrations.

Voting Procedures

18. Upon completion of the voting demonstration, if any, the elector shall proceed as instructed, to the election official responsible for issuing ballots, who, upon fulfillment of the requirements of the *Local Government Act*, shall then provide a ballot to the elector, a secrecy sleeve if requested by the elector, and any further instructions the elector requests.
19. Immediately after receiving the ballot, the elector must
 - (a) proceed to a voting compartment to vote, or

- (b) if the elector is unable to mark a ballot because of a physical disability or difficulties in reading or writing or is unable to enter the voting place because of physical disability or impaired mobility, the elector may vote in accordance with the procedures outlined in the *Local Government Act*.
- 20. The elector must vote by making a legible mark on each ballot beside
 - (a) the chosen candidate or candidates, where there is more than one vacancy, and
 - (b) beside the “yes” or “no” when the vote is in relation to a bylaw or other matter on which the assent of the electors is sought.
- 21. An elector may
 - (a) mark only up to the same number of spaces on the ballot as the number of vacancies in office, and
 - (b) not mark more than one space on a ballot in relation to a bylaw or other matter on which the assent of the electors is sought.
- 22. Once the elector has finished marking the ballot, the elector must either
 - (a) place the ballot into the secrecy sleeve, if one has been requested, or
 - (b) otherwise conceal the markings on the ballot and proceed to the vote tabulator.
- 23. Under the supervision of the election official in attendance, the elector must insert the ballot directly from the secrecy sleeve, if applicable, into the vote tabulator without the acceptable marks on the ballot being exposed.
- 24. If an elector has
 - a) unintentionally spoiled a ballot or made a mistake before it is deposited in a ballot box, or
 - b) if the vote tabulator will not accept the ballot,the presiding election official must issue a new ballot to the elector and mark the returned ballot “spoiled”.
- 25. Spoiled ballots must be retained and kept separately from all other ballots and must not be counted in the election results.
- 26. (1) If a ballot is rejected by the vote tabulator, the election official at the ballot box must advise the elector that he or she may request another ballot.
- (2) If the elector refuses the opportunity to request another ballot, the election official will instruct the vote tabulator to accept the rejected ballot.
- 27. Any ballot counted by the vote tabulator is valid and will be counted in the election results, subject to any determination made by the chief election officer on a recount.
- 28. Once the ballot has been inserted into the ballot box, the elector must immediately leave the voting place.

29. If the vote tabulator stops functioning, the election official at the ballot box must insert all ballots delivered by the electors while the vote tabulator is not working into the portable ballot box for inserting once a vote tabulator is available or counting at a later time.

Advance Voting Opportunities and Procedures

30. Where an automated voting system is used for general voting day, an automated voting system will be used to conduct advance voting opportunities.
31. The voting procedures at the advance vote will follow, as closely as possible, the voting procedures set out in this bylaw.
32. At the close of the advance voting opportunity, the presiding election official must ensure
- (a) that any portable ballot boxes are sealed;
 - (b) that no additional ballots are inserted in the vote tabulator;
 - (c) that the ballot boxes used are sealed to prevent insertion of additional ballots;
 - (d) that the results tapes for the advance voting opportunity are not generated;
 - (e) that the automated voting system, including the sealed memory cards and ballot boxes, and any portable ballot boxes are delivered to the chief election officer for securing until general voting day.
33. The chief election officer must ensure
- (a) that the ballot boxes and any portable ballot boxes used for the advance voting opportunity remain sealed until 8:00 p.m. on general voting day;
 - (b) that the memory cards used for advance voting remain secure until 8:00 p.m. on general voting day; and
 - (c) that the results tapes for the advance voting opportunity are not generated until 8:00 p.m. on general voting day.

Mail Ballot Voting [Bylaw 1169]

34. Voting by mail ballot and elector registration in relation to mail ballot voting is permitted.
35. (1) A person wishing to vote by mail ballot must apply by submitting to the Village the application form prescribed by the Chief Election Officer during the period beginning on 8:30 a.m. on the thirtieth day before general voting day and ending at 4:30 p.m. on the eighth day before general voting.
- (2) A register of mail ballots will be made available for inspection upon request.

- (3) Before an elector is entitled to view the register, the elector must sign a statement that the elector will inspect the list only for the purposes of the election.
 - (4) A person who qualifies under section 126 of the *Local Government Act* may challenge the right of a person to vote by mail ballot on the grounds set out in section 126 of the *Local Government Act* up until 4:30 p.m. two days before general voting day.
 - (5) If, upon receiving an application for a mail ballot, the Chief Election Officer determines that another person has applied for or has already been issued a mail ballot in the elector's name, the Chief Election Officer shall comply with section 127 of the *Local Government Act*.
36. To vote by a mail ballot, the elector must complete the elector registration, mark the ballot, and mail or have delivered the mail ballot package to the Chief Election Officer before the close of voting day in accordance with the instructions contained in the mail ballot package.
37. (1) Until 4:30 p.m. two days before general voting day, the Chief Election Officer shall, upon receipt of a mail ballot package and its contents,
- (a) record the date of receipt in the Register of Mail Ballots,
 - (b) open the return envelope,
 - (c) examine the certification envelope,
 - (d) confirm the identity of the elector as an applicant on the Register of Mail Ballots,
 - (e) determine the fulfilment of the requirements in section 70 of the *Local Government Act* and the completeness of any application to register, and
 - (f) determine the completeness of the certification envelope.
- (2) If the Chief Election Officer is satisfied that the elector has met the requirements set out on the certification envelope, the Chief Election Officer shall,
- (a) mark the certification envelope as "accepted" and
 - (b) place the accepted certification envelope with the other certification envelopes.
- (3) If the Chief Election Officer is not satisfied as to the identify to the elector; or determines that the elector has not completed the application to register properly,
- (a) the Chief Election shall mark the certification envelope as "rejected",
 - (b) indicate the reason for the rejection for the rejection, and
 - (c) set aside the rejected certification envelope unopened.

- (4) The Chief Election Officer shall retain in their custody all opened and unopened certification envelopes.
- (5) If the Chief Election Officer receives a mail ballot package after 4:30 p.m. two days before general voting day but before the close of general voting, the Chief Election Officer shall,
 - (a) handle those return envelopes in accordance with this section at the time that the Chief Election Officer receives the return envelopes;
 - (b) retain all accepted certification envelopes until the close of general voting day;
 - (c) process the accepted certification envelopes in accordance with this section.
- (6) On general voting day, the Chief Election Officer in the presence of at least one other person, including any candidate representatives, shall
 - (a) deal with any challenges to the electors involving the accepted certification envelopes,
 - (b) open the certification envelopes,
 - (c) remove the secrecy envelopes containing the ballots, and
 - (d) open the secrecy envelope and run the ballot through the automated voting machine.
- (7) Any mail ballots returned by the voting machine when being counted must be reinserted into the voting machine using the ballot return override procedure to ensure that any acceptable marks are counted.
- (8) If the Chief Election Officer receives a return envelope with its contents after the close of general voting day, the Chief Election Officer shall
 - (a) mark the return envelope as “rejected”,
 - (b) indicate the reason why the return envelope was rejected on the return envelope,
 - (c) record the date of receipt in the Register of Mail Ballots, and
 - (d) place the unopened return envelope with the other rejected return envelopes.

Post-vote Procedures

38. Immediately after the voting place is closed, the presiding election official must
 - (a) direct that all unopened portable ballot boxes be opened,
 - (b) ensure that any ballots in the portable ballot boxes are inserted into the vote tabulating unit,
 - (c) secure the vote tabulator so that no more ballots can be inserted,
 - (d) generate two copies of the results tape from the vote tabulator,
 - (e) complete the ballot account, attaching one copy of the results tape,
 - (f) seal all voted ballots in the ballot box,

- (g) count the unused ballots, spoiled and rejected ballots and place them, packaged separately and sealed, in the ballot box along with the voting book, a copy of the results tape, a copy of the ballot account and all statements and voters lists,
 - (h) seal and initial the ballot box and deliver it to the election office, and
 - (i) deliver the vote tabulator, one copy of the results tape and the ballot account to the chief election officer as soon as possible.
39. The results tapes from the vote tabulators used at the advance voting opportunities and at any special voting opportunities will be generated by the chief election officer or designate after 8:00 p.m. on the general voting day.

Recount Procedure

40. If a recount is required and an automated voting system has been used to conduct the vote, the procedure for a recount is as follows:
- (a) the memory card of all vote tabulators will be cleared;
 - (b) vote tabulators will be designated for each voting place;
 - (c) all ballots will be removed from the sealed ballot boxes; and
 - (d) all ballots, except spoiled or rejected ballots, will be reinserted in the appropriate vote tabulators under the supervision of the chief election officer.

Scrutineers

41. If an election or other voting is conducted with an automated voting system, two scrutineers for each candidate are permitted to be present for each ballot box in use at a voting place while voting proceedings are being conducted on general voting day and advance voting opportunities and if a recount is required.

PART 3 RESOLUTION OF TIE VOTES AFTER JUDICIAL RECOUNT

42. If at the completion of a judicial recount the results of the election cannot be declared because there is an equality of valid votes for 2 or more candidates, the results will be determined by lot in accordance with the *Local Government Act*.

PART 4 ACCESS TO DOCUMENTS

43. Public access to nomination documents will be provided by posting the documents on the Village website as soon as practicable after the time of delivery to the chief election officer until 30 days after the declaration of official election results.
44. Public access to campaign disclosure statements, signed declarations, and supplementary reports required under sections 90 and 90.1 of the *Local Government Act* will be provided by posting the documents on the Village website as soon as

practicable after the time of filing with the designated local government officer until 3 years after general voting day for the election to which they relate.

PART 7 SEVERABILITY AND REPEAL

45. If any section, subsection, paragraph or clause of this bylaw is found to be invalid by a Court of competent jurisdiction, it may be severed from the remainder of this bylaw.
46. The following bylaws are repealed:
- (a) "Corporation of the Village of Cumberland 2011 Local Government Election Bylaw No. 945, 2011";
 - (b) "Corporation of the Village of Cumberland Voting Day Registration Bylaw No. 946, 2011".

READ A FIRST TIME THIS	11TH	DAY OF	FEBRUARY	2014.
READ A SECOND TIME THIS	11TH	DAY OF	FEBRUARY	2014.
READ A THIRD TIME THIS	11TH	DAY OF	FEBRUARY	2014.
ADOPTED THIS	24TH	DAY OF	FEBRUARY	2014.

Mayor

Corporate Officer