



municipal and school board **election**  
**élections** municipales et scolaires

# **City of Greater Sudbury 2018 Municipal and School Board Election Voting and Vote Counting Procedures**

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Dated at Greater Sudbury, December 11, 2017  
Revised: September 24, 2018

## 1.0 General Information

### 1.1 Overview

The right to vote is a fundamental democratic right that is protected by the *Canadian Charter of Rights and Freedoms*. As described by Elections Canada, participation, fairness and transparency are three fundamental principles associated with elections which can be described as follows:

- **Participation** means that all electors can exercise their right to be involved in the electoral process, fully and freely
- **Fairness** means that all candidates are treated exactly the same and impartially
- **Transparency** means that everyone knows the rules, and can see that they are being followed

Ensuring the integrity of the vote and the voting process is paramount to the conduct of the 2018 Municipal and School Board Election and to the protection of these fundamental rights and principles. In making decisions relating to the 2018 Municipal and School Board Election, the City of Greater Sudbury is guided by the *Municipal Elections Act, 1996* and by the following principles:

- The secrecy and confidentiality of individual votes is paramount;
- The election should be fair and non-biased;
- The election should be accessible to the voters;
- The integrity of the process should be maintained throughout the election;
- There be certainty that the results of the election reflect the votes cast; and
- Voters and candidates should be treated fairly and consistently.

### 1.2 Preamble and Authority

The 2018 Municipal and School Board Election shall be conducted by the Clerk of the City of Greater Sudbury (the “Clerk”) in accordance with the provisions of the *Municipal Elections Act* (the *Act*), its applicable Regulations and these procedures.

Paragraph 42(1)(a)(b) of the *Act* permits the Council of a local municipality to pass by-laws *authorizing the use of voting and vote counting equipment such as voting machines or voting recorders, and the use of alternative voting methods that do not require electors to attend at a voting place in order to vote for municipal elections.*

The City of Greater Sudbury has passed the following election related by-laws, all of which can be found on the City of Greater Sudbury election website:

- a) [City of Greater Sudbury By-law 2016-17](#): A By-law of the City of Greater Sudbury to Adopt a Policy Regarding the Use of Municipal Resources by Candidates During an Election
- b) [City of Greater Sudbury By-law 2017-66](#): A By-law of the City of Greater Sudbury to Authorize Various Matters under the Municipal Elections Act, 1996, as Amended, for the 2018 Municipal Election

The *Act* gives the authority to the City Clerk as Returning Officer, to establish procedures and forms for voting and vote-counting equipment within the municipality. The *Act*, further gives authority to the City Clerk to provide for any matter or procedure that is not provided for in the *Act*.

Subsection 42(4) of the *Act* provides that *the procedures and forms established 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.*

The definitions and procedures provided apply to the Municipal and School Board Election to be held on Monday, October 22, 2018 including the advance vote, to be held from Monday, October 15, 2018 to Monday, October 22, 2018.

### **1.3 Notice**

Election materials and information provided to candidates and voters shall comply with the City of Greater Sudbury Notice By-law 2012-204 and the City of Greater Sudbury French Language Services Policy, City of Greater Sudbury By-law 2017-66. The Clerk will give notice to candidates and voters as described in the *Act*.

### **1.4 Voting Opportunities**

#### **Voting Locations**

In accordance with the provisions set out in Section 45 of the *Act*, the Clerk has established voting locations throughout the City of Greater Sudbury for in person, electronic voting. In consultation with best practices of municipalities from across Ontario, the City of Greater Sudbury does not use voting subdivisions and voters may vote at the location most convenient for them.

All voting locations have been evaluated and reviewed by the Election Team based on a number of criteria including, but not limited to; accessibility, proximity to community gathering locations, physical size, availability of parking, ease of access from streets or roadways, and proximity to bus stop or route(s). Most voters are within 5-10 driving minutes of their nearest voting location and in rural areas are within 15 driving minutes of that location.

#### **Electronic Voting Period**

City of Greater Sudbury voters will have the opportunity to cast their ballot online at anytime during the electronic voting period from 10:00 a.m. Monday, October 15, 2018 to 8:00 p.m. Monday, October 22, 2017.

A Greater Sudbury Transit bus will be outfitted as a mobile electronic voting location, and taken to various locations throughout the City on the dates and times to be determined by the Clerk during the electronic voting period.

#### **Election Day**

On Election Day, Monday, October 22, 2018, electronic voting locations will be open from 10:00 a.m. to 8:00 p.m. Voting will be held at retirement homes or institutions that meet the criteria provided in subsection 45(7) of the *Act*, at times to be determined by the Clerk.

### **1.5 Ballots**

Ballots which contain the names of all certified candidates for municipal and school board office will be used. Candidate names will appear on the ballot exactly as the name appears on the Nomination Paper Form 1 as outlined in the *Act* below. In accordance with the rules set out in subsection 41(2) of the *Act*, the following rules apply to all ballots:

- (a) *Only the names of certified candidates shall appear on the ballot;*
- (b) *The candidates' names shall appear on the ballot in alphabetical order, based on their surnames and in the case of identical surnames, their forenames;*

- (c) *If the candidate wishes and the clerk agrees, another name that the candidate also uses may appear on the ballot instead of or in addition to his or her legal name;*
- (d) *No reference to a candidates' occupation, degree, title, honour or decoration shall appear on the ballot;*
- (e) *If the surnames of two or more candidates for an office are identical, or in the clerk's opinion, so similar as to cause possible confusion, the clerk shall differentiate the candidates on the ballots as the clerk considers to be appropriate in the circumstances;*
- (f) *A space for marking the ballot shall appear to the right of each candidate's name or, in the case of a by-law or question to the right of each answer; and*
- (g) *All ballots for the same office or relating to the same by-law or question shall be identical or as nearly alike as possible.*

*The Clerk shall make such changes to some or all of the ballots as they consider necessary or desirable to allow voters with visual impairments to vote without assistance.*

When an acclamation has occurred for an office, the ballot area for that office will indicate that an acclamation has taken place. This will be done for the sole purpose of assisting voters. No vote count will be taken for the acclaimed office.

### **Electronic Voting Ballots**

During the voting period, voters will have the opportunity to cast their ballot online. Once voters have inputted their voting credentials and entered the voting system, their designated ballot which contains the names of all certified candidates for municipal and school board office will appear onscreen. Voters will move through the system and the ballot races as they appear on the screen by marking the ballot in the designated space to the right of each candidate name.

### **1.6 Appointment of Election Officials**

The Clerk is responsible for determining the resources required for the effective and efficient conduct of the Municipal and School Board Election and as such will appoint Election Officials as deemed necessary for the purposes of these procedures and may designate such titles and duties as appropriate. The number of election staff and their duties will vary based on the characteristics of each voting location.

Every election official appointed by the Clerk will be required to take a General Appointment and Oath of an Election Official related to their duties and responsibilities.

### **1.7 Voters**

#### **Voter Qualifications**

As per Section 17(2) of the Act, a person is entitled to be a voter if, on voting day, the voter:

- (a) *Resides in the local Municipality, or is the owner or tenant of land there, or is the spouse of such owner or tenant;*
- (b) *Is a Canadian Citizen;*
- (c) *Is at least 18 years old; and*
- (d) *Is not prohibited from voting under subsection 17(3) of the Act or otherwise by law.*

#### **Voters' List – General**

The Municipal Property Assessment Corporation (MPAC) is responsible for supplying the City of Greater Sudbury with the Voters' List for Municipal and School Board Elections.

The Voters' List for the 2018 Municipal and School Board Election will be a live web-based list and will be hosted by DataFix.

When a voter casts an electronic ballot, their name will be automatically struck off the Voters' List as having cast their ballot. The date and time will be recorded.

### **Voters' List Revisions**

If an individual qualifies as a voter and their name has been omitted from the Preliminary Voters' List or their information is incorrectly shown, they must file an Application to Amend Voters' List in the form specified by the Clerk, during the period from Tuesday, September 4, 2018 to Monday, October 22, 2018 (Election Day). The voter has three options to apply to update or correct their information on the Voters' List:

- (a) Make an electronic application using the Online Voter Services System;
- (b) Make an application in person at Clerk's Services; or
- (c) Make an application at the electronic voting location of their choice.

Voters will be required to attest to their identity and the election official will confirm that the individual who is making an Application to Amend the Voters' List meets the requirements for voters as described in the *Act*. Where applicable, a replacement Voter Information Letter may be issued.

### **Distribution of Voters' List to Candidates**

In accordance with Section 88(11) of the *Act*, the Voters' List is to be used only for the purposes of the election and must not be publicly posted or otherwise made available. The list is only made available to registered candidates via the DataFix Candidate Access Portal.

The Preliminary Voters' List, showing the names, addresses, ward and school board support of all persons entitled to vote in the 2018 Municipal and School Board Election in the City of Greater Sudbury, will be provided electronically to all registered candidates or their Official Agent through the DataFix Candidate Access Portal. The Voters' List will be available to candidates throughout the voting period and will be updated daily.

Any copies of the Voters' List in a candidate's possession must be immediately destroyed following Election Day and must be done in such a way as to protect the privacy of the citizens named on that list.

### **Voter Information Letters (VIL)**

During the third (3<sup>rd</sup>) week of September, each eligible voter whose name appears on the Voters' List as of the close of business, Friday, September 14, 2018 will receive, by regular mail, a Voter Information Letter (VIL) which contains voting information for the electronic voting period. The letter will include instructions regarding the process for voting during the electronic voting period.

Any eligible voter who is added to the Voters' List after Friday, September 14, 2018 will be provided with a VIL by the Clerk or their designate following their addition to the Voters' List.

Voter Information Letters returned to the Clerk's Department unopened will remain unopened, and maintained in a secure fashion. If the Clerk or their designate is satisfied that a Voter Information Letter that has been returned can be delivered safely to the voter, and the voter has not already voted, then the Clerk or their designate may authorize the release of the returned Voter Information Letter to the voter.

Once a voter has voted, they are no longer eligible to receive a replacement Voter Information Letter.

All returned Voter Information Letters that are in the possession of election officials at the end of the voting period will be destroyed at the same time as all other election material as provided for in the *Act*.

### **1.8 Proxy Voting**

Council passed [By-law 2017-66](#), regarding proxy voting during the 2018 Municipal and School Board Election by stating that proxy voting shall not apply to electronic voting conducted from a place other than an electronic voting location or voter help centre.

An elector who is not able to attend a Voter Help Centre or Electronic Voting Location and who does not have access to the internet or a device on which to cast their electronic ballot during the voting period may appoint another person as a voting proxy (a "Proxy") to cast an electronic ballot on their behalf in person at a Voter Help Centre or Electronic Voting Location.

The following rules apply to proxy voting:

- the elector acting as a Proxy must also be an eligible voter in the City of Greater Sudbury;
- Appointment of Voting Proxy forms are available on the City of Greater Sudbury's election website;
- *no person shall appoint more than one Proxy and no person shall act as a Proxy for more than one person, unless the relationship between the Proxy and the persons for whom they are voting are their spouse, sibling, parent, child, grandparent, and/or grandchild.*
- proxies can only be appointed *after the time for the withdrawal of nominations has expired for all offices for which the election is being conducted.* The earliest day for appointment will be July 27, 2018;
- to appoint a Proxy, the voter must complete the Appointment of Voting Proxy Form after July 27, 2018. The appointed voter must present the completed form at Clerk's Services in order to be commissioned and certified;
- the elector appointed as Proxy must provide a certified copy or original piece of identification (as prescribed) for both the person appointing the Proxy and for the person who is appointed to act as a Proxy;
- only forms that have been stamped and certified by the Clerk or their designate will be accepted by electronic voting location Election Officials.
- prior to casting an electronic ballot, a person acting as a proxy on behalf of another voter must take the prescribed oath.

The person appointed as the Proxy is still entitled to vote in his/her own right.

### **1.9 Voters Requiring Assistance**

At electronic voting locations during the electronic voting period, a voter may vote with the assistance of a designated election official who will mark the ballot according to the voter's choice(s).

Alternatively a voter may choose to have the assistance of a relative or friend in marking their ballot. In which case the individual chosen by the voter to assist them and mark the ballot according to the voter's choice(s) will be required to take an oral oath or affirmation to be administered by an election official prior to going behind the voting screen with the voter.

### **1.10 Candidates/Scrutineers**

Candidates may appoint scrutineers in writing by completing the Appointment of Scrutineer Form, which is available to all registered candidates on the City of Greater Sudbury's election website. Scrutineers represent the candidate at the electronic voting locations during the electronic voting period.

Scrutineers must show their written appointment to an election official when entering the voting location.

The following rules apply to both the candidate and scrutineer present at any electronic voting location:

- a) Decorum will be maintained at all times. Election officials at electronic voting locations are responsible for the conduct of the electronic voting location and no candidate or scrutineer shall interfere with an election official in the discharge of their duties. Anyone who interferes with or disrupts the election or who fails to follow the instructions of the election officials will be required to leave. The decision of the election officials in this regard is final;
- b) During the fifteen (15) minutes prior to the opening of the electronic voting location, each scrutineer who is entitled to be present, may visually inspect papers, forms, documents and other equipment relating to the vote, but shall not delay the timely opening of the electronic voting location;
- c) Only one scrutineer for each certified candidate may be present at the electronic voting location at any time. If the candidate or another scrutineer appointed by the candidate enters the electronic voting location, the first scrutineer must leave;
- d) Scrutineers are not permitted to sit at or use chairs or tables provided for election officials;
- e) Scrutineers shall not attempt to influence, directly or indirectly, how a voter votes;
- f) Scrutineers shall not enter a voting compartment while occupied by a voter, nor do any other thing to attempt to see how a voter marks a ballot;
- g) In accordance with the *Act*, and City of Greater Sudbury By-law 2007-250 all campaign material and literature is prohibited inside and within 50 metres of the exterior main entrance of the electronic voting location or the front facade of the building which contains the electronic voting location, whichever distance is greater and at any other location deemed by the Clerk to be a part of the electronic voting location as authorized in section 48(2) of the *Act*;
- h) If voting by a person is objected to by a scrutineer, the election official will note the objection and require the voter to take a prescribed oath prior to the issuance of a ballot;
- i) A candidate or their scrutineer, is entitled to be present to observe the closing procedures;
- j) Candidates or their scrutineers must arrive no later than 7:45 p.m. and remain in the electronic voting location until its closing to be granted access to view the closing procedures; and
- k) Should a candidate or scrutineer arrive after the doors to the electronic voting location have been locked they will not be granted access to view the closing procedures.

### **1.11 Results**

As per Section 55 of the *Act*, *the Clerk shall as soon as possible after voting day, declare the candidate or candidates, as the case may be, who received the highest number of votes to be elected, and declare the result of any vote on a by-law or ballot question.*

In the event of a tied vote, the provisions of the *Act* will be followed.

### **1.12 Recounts**

As per the *Act*, if a recount of votes is required, the votes will be counted in the same manner as the votes were counted on Election Day.

For more detailed information with respect to the recount process and procedures, please refer to section 5.0.

### **1.13 Records**

At the completion of the final count, the Clerk will retain all election materials in a secure manner and destroy those records as per the provisions of the *Act*.

The use of online, electronic and paper versions of the Voters' List, interim list of changes to the Voters' List and all other information containing personal voter information by candidate will be protected by the candidate, will not be used for any purpose other than the 2018 Municipal and School Board Election, and will be destroyed by the candidate immediately following the election.

### **1.14 Corrupt Election Practices**

Sections 89 and 90 of the *Act* provide for penalties and enforcement of corrupt practices and other offences during an election process.

All complaints about activities which may contravene the provisions of the *Act* should be addressed to the Clerk who will forward the complaint to the Greater Sudbury Police Services where appropriate to do so.

### **1.15 Emergencies**

As per Section 53 of the *Act*, *the Clerk 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 Act.* On declaring an emergency, the Clerk shall make such arrangements as deemed advisable for the conduct of the election. The arrangements made by the Clerk, if they are consistent with the principles of this *Act*, prevail over anything in this *Act* and the regulations made under it.

If required, the Clerk may consider alternate options for the following:

- (a) Reporting results;
- (b) Notification of voters;
- (c) Election officials;
- (d) Voting period (delay of Voting day, extension of voting hours or day(s)); and
- (e) Alternate voting locations or alternate facility.

The Clerk may make any directions that they think necessary or desirable with respect:

- (a) To the voting procedures to be used;

- (b) To the taking of the votes;
- (c) For the counting of the votes; and
- (d) Where required, for a recount under Sections 56 to 64 of the Act.

The emergency continues until the Clerk declares that it has ended. If made in good faith, the Clerk's declaration of emergency and arrangements shall not be reviewed or set aside on account of unreasonableness. The Clerk shall provide notice of such emergency to the best of their ability and in keeping with the circumstance. If any part of the voting for an office is not completed due to an emergency, the Clerk will not release the results until the voting for that office is completed.

### **1.16 Amendment of Procedures**

Where the Clerk deems it necessary to provide clarification, interpretation or adjustment on any of the procedures described herein, the Clerk shall post the amended procedures to the City of Greater Sudbury election website.

## **2.0 Electronic Voting**

As outlined in Section 1.4 Voting Opportunities, electronic voting will take place during the electronic voting period beginning at 10:00 a.m. Monday, October 15, 2018 and ending at 8:00 p.m. Monday, October 22, 2018.

The electronic voting site will be hosted by the City of Greater Sudbury's electronic voting service provider and registered voters will be provided with the web address link to access the site and their Voter ID and PIN in their Voter Information Letters.

### **2.1 Service Provider**

The service provider for electronic voting, determined through a Request for Proposals process, is Dominion Voting Systems Inc. A copy of the contract with Dominion Voting Systems Inc. is available from the Clerk upon request.

### **2.2 Security and Integrity**

The Dominion IV System provides a layered and comprehensive set of security controls for the end-to-end electronic voting process including pre-voting (election definition), voting (electronic voting), and post-voting (results processing, reporting and publishing). Security controls include physical security mechanisms (secure data centers), access control (role based access control and user authentication with real-time audit records), data confidentiality (encryption using NIST verified algorithms such as AES256) as well as data integrity (digital signatures and certificates using verified algorithms such as RSA and SHA256). In addition, the electronic voting system has a time-controlled validity; the system is operational only when the City of Greater Sudbury decides it to be operational.

Access to the IV solution is protected by the initial voter authentication process, which interfaces with Voter Management Portal via programmed interface with the City of Greater Sudbury's voter management system. In that way, the only publicly visible web page is the actual voter login page (authentication page). Only after successful voter authentication, the system allows access to the voting pages.

The Dominion IV Solution maintains an audit log at the system backend (server) side when the voting session has started and when it has finished, with the additional information such as IP

address, session ID, ballot ID, etc. For additional auditing purposes, Dominion Internet Voting Solution also keeps an electronic ballot image record for each ballot cast that can be used for auditing as well as any recount purposes.

Anti-virus protection: The IV System utilizes the Avast Enterprise Suite for anti-virus protection. This ISCA certified suite of applications provides the following:

- Antivirus protection;
- Anti-spyware protection;
- Anti-rootkit protection;
- Resident protection;
- 64-bit OS support; and
- Boot-time scan.

Protection against repeat voting: Once the voter casts their ballot, the system does not allow the same voter to login again. In addition, as soon as the voter casts their electronic ballot, the IV system updates the election database, creates audit records and an electronic ballot image with timestamp, and therefore provides multiple ways to verify that votes have not been modified. For privacy, the voter management database and the election database are separate systems to prevent any way of linking voters with their votes.

The Voter Management Portal and the electronic voting system databases are separate. Casting of the ballot results in real-time strike-off of that voter on the voter list system. No link between voter and votes cast can be established.

### **2.3 System Testing**

A logic and accuracy testing session of the voting system will occur prior to the 2018 Municipal and School Board Election.

A service provider will perform standardized technical and diagnostic testing on the electronic voting system being used in Greater Sudbury so as to ensure that votes are marked and recorded accurately and that the systems are secure. *Appendix B* outlines the ballot scenarios to be used during the 2018 Municipal and School Board Election.

All printouts, reports and all other records of the testing phases will be retained for verification purpose as outlined in Section 88 of the *Act*.

### **2.4 Disruption of Voting**

When a voter is timed out by default or if the session is interrupted or terminated (intentionally or not) before the final ballot is cast then no information is stored in the voting client or in the server and no votes are recorded or cast. This practice guarantees the voter's privacy at all times. Therefore the voter whose session has been disrupted has to authenticate again and start the voting process from the beginning. The electronic voting system will time out after 10 minutes when there has not been any activity between the voter and the electronic voting system.

### **2.5 Tabulation**

Once the Dominion IV voter has confirmed ballot selections, the system updates the electronic ballot box (election database), creates audit records and an electronic ballot image with timestamp, providing multiple ways to verify that votes have not been modified. Ballot data is completely separated from the voter with no ballot data stored locally on the voter's computer. Logic and Accuracy testing performed prior to the start of voting provides the opportunity for the

election officials and auditors to review the full voting process including vote count and ballot selections.

In addition to the separation of ballot and voter information, the Dominion solution conducts multiple checks on ballot integrity before it is cast into the electronic ballot box. After pressing the Submit button, the ballot information is:

- Encrypted to protect the information contained in the ballot.
- Hash coded (the entire ballot bitmap hash is calculated and appended to the ballot image) to ensure the ballot is not altered by malicious intent before reaching the election servers.
- All ballot data remains encrypted until the election officials initiate the tally and reporting process.

### **3.0 Electronic Voting Procedures**

Prior to the activation of the system by the Clerk, on October 15, 2018 (10:00 am), the Deputy Returning Officer and those candidates/scrutineers in attendance shall confirm that all candidates' names are listed and that no votes have been cast. The system will not be activated until confirmation that all the counts associated with each of the candidates' names indicate a "0" total. The Deputy Returning Officer will initiate a "Zero Count" Report from within the Administrative Module of the voting system. The Zero Count Report can only be generated prior to the start of the voting process.

#### **3.1 Voting**

An eligible voter may only vote once in the City of Greater Sudbury.

An eligible voter will access the electronic voting system via the web address provided in their VIL. Once the voter has entered the site they will be required to input their Voter ID and PIN number as it appears on their VIL.

If the information matches the information on the Voters' List the voter will continue through the system to cast their ballot. If the information does not match the information on the Voters' List the voter will be required to contact the City of Greater Sudbury's electronic voting helpline.

The Voter IDs and PINs provided to each voter in their VIL are unique to each voter. If for any reason the voter is unable to use this information or has lost this information before they are able to cast their ballot online, they will be required to contact the City of Greater Sudbury's electronic voting helpline in order to have their credentials disabled. Following which the voter will be issued new credentials should it be appropriate to do so.

Once the voter has successfully logged into the electronic voting system, the voter will see on the screen the personalized ballot contents for all races assigned to them.

In order to move through the electronic voting system, the voter will be required to select the appropriate number of candidates in the race before them or choose not to vote in order to continue to the next race.

Once all of the voter's options for the races have been selected a confirmation screen will display the selected candidates.

The voter will then have the opportunity confirm their selections and will have the ability to go back through the system to make any changes to their selections prior to casting their final ballot. The system will alert voters if they have cast an under-voted ballot and the voter will have the opportunity to go back through the system to confirm their selections. If the voter does not wish to make any changes to their under-voted ballot the system will accept the ballot. The system will not accept an over-voted ballot.

Once the voter confirms their selections and casts their ballot, the vote is then individually protected using a specific cryptographic protocol and is safely stored in the electronic ballot box.

Once the ballot is cast, the voting credentials (Voter ID and PIN) are disabled and no further access to the system will be granted. The voter is struck off the Voters' List and will obtain a special "counted-as-cast" receipt that tells the voter that their ballot was recorded by the system.

### **3.2 Duplicate Voter Information Letters**

Should an eligible voter receive more than one Voter Information Letter, the eligible voter may only vote once and must return the other Voter Information Letter to the municipal office and file an Application to Amend Voters' List to remove the duplicate name. All electors who vote more than once or who improperly use the Voter Information Letter shall be reported to the police for further investigation as to possible corrupt practices under the *Act*.

Duplicate Voter Information Letters returned to the Clerk shall have the PIN immediately disabled in the system so that the PIN cannot be used in the voting process. The opened Voter Information Letters will then be maintained in a secure fashion and destroyed in the same manner as all other municipal election material, as provided for under s.88 of the *Act*.

### **3.3 PIN Procedures**

Where an eligible voter has tried their PIN and has been unsuccessful in accessing the electronic voting system, the Election Official will determine its status, and once verified shall advise the voter that the PIN is valid and has not been used. The Election Official may suggest the voter attend an electronic voting location to obtain assistance in voting electronically.

Where an eligible voter has tried their PIN and they have determined that it has already been used, the voter can present themselves at an electronic voting location with proof of identity and residence and have an Election Official confirm that the elector's PIN has been used.

Where an eligible voter has received an incorrect Voter PIN in terms of school support, and has not voted, the voter can contact the electronic voting helpline and have the proper category applied to the existing PIN. The elector will be required to provide appropriate confirmation of eligibility and to file an Application to Amend Voters' List.

The voter must contact the electronic voting helpline in order to obtain a new PIN. New PIN(s) shall not be given out over the telephone.

#### **4.0 Vote Counting Procedures**

The Clerk, at 8:00 p.m. on Monday, October 22, 2018, shall arrange for the close and deactivation of the electronic voting system. The electronic voting system will allow a set period of time for voters who have logged in prior to 8:00 p.m. to finish casting their ballot.

Notwithstanding the above, the Clerk shall keep electronic voting open only in the electronic voting locations where eligible voters have not completed voting by 8:00 p.m.

The Clerk shall then produce the Vote Count Report. Those present, including the Clerk, Election Official, candidates (or their scrutineers), shall sign the report indicating the results and votes cast. Candidates and scrutineers will be required to provide proof of identity prior to entry and electronic devices will be remitted to ensure results are only publically available no earlier than 8:20 p.m. Entry will not be permitted before 7:45 p.m. Anyone who is creating a disturbance will be removed as directed by the Clerk.

## **5.0 Recount Procedures**

The *Municipal Elections Act, 1996* (the *Act*) gives the authority to the City Clerk as Returning Officer, to establish procedures and forms for the recount process within the municipality. The *Act* further gives authority to the City Clerk to provide for any matter or procedure that is not provided for in the *Act*.

The recount shall be conducted by the Clerk of the City of Greater Sudbury (the “Clerk”) in accordance with the provisions of the *Municipal Elections Act* (the *Act*), Ontario Regulation 101/97, and these procedures.

### **5.1 Timing and Location**

The recount shall commence on the date and time and at the location determined by the Clerk and shall be held within the time periods set out in the *Act*.

### **5.2 Notice**

The Clerk shall give notice of the recount as described in Regulation 101/97 s.4 and as provided for in the *City of Greater Sudbury 2018 Municipal and School Board Election Voting and Vote Counting Procedures*.

### **5.3 Manner of the Recount**

As provided for in subsection 60(1) of the *Act*, “*a recount under section 56, 57, or 58 shall be conducted in the same manner as the original count*”.

In accordance with Section 42(4) of the *Act*, these procedures provide that at the recount, there shall be *no more than one scrutineer for each certified candidate for each piece of vote-counting equipment* and also that *the persons referred to in subsection 61(5) are not entitled to examine each ballot as the votes are being counted by the Clerk*.

Election recount officials are the only persons who may handle the ballots and other election material. Prior to the commencement of the recount, the Clerk will allow the candidates and their authorized representatives to view and identify the election materials.

### **5.4 Order and Decorum**

Decorum will be maintained at all times. The Clerk will exercise reasonable control over the conduct of the recount to assure that election officials do not experience interference from any candidate, their scrutineer, legal counsel, or any other person. Should anyone or anything impede the recount process, the recount will stop until the solution is remedied.

Anyone who disrupts the recount or fails to follow the instructions of the Clerk or their designate will be required to leave. The decision of the Clerk in this regard shall be final.

### **5.5 Election/Recount Officials**

The Clerk shall appoint such number of election officials to assist in the conduct of the recount as considered necessary and may designate their titles and duties and in accordance with s. 15(2) of the *Act* may delegate powers and duties to those officials.

## **5.6 Who may be Present in the Designated Recount Area**

Media representatives and the public will be entitled to attend and must remain in the viewing area set aside for this purpose.

In accordance with Section 61(1 – 2) of the *Act*, only the following persons are entitled to be present in the designated recount area:

- (a) *The Clerk and any other election official appointed by the Clerk for the recount;*
- (b) *Every certified candidate for the office subject to the recount;*
- (c) *The applicant for the recount ; and*
- (d) *For each person referred to above:*
  - *A lawyer, and*
  - *One (1) candidate scrutineer for each recount station established by the Clerk.*

Candidate's scrutineers must be appointed in writing by the candidate or the candidate's legal counsel and must present a complete and signed Appointment of Scrutineer Form to the Clerk prior to the commencement of the recount in order to be admitted into the designated area.

Any person authorized to attend in the recount area, shall be required, prior to the start of the recount procedures, to take an oath or declaration before participating in the recount or performing any duties. Those in attendance in the viewing gallery are exempt from the oath.

Observers of the recount may not make a record or note of any personal information which may appear on ballots or other documents unless each action is specifically authorized, in writing, by the Clerk. Personal information is protected by Section 14(1) of the *Municipal Freedom of Information and Protection of Privacy Act*.

## **5.7 Location Set-up**

The location and set-up shall be determined by the Clerk.

All materials necessary for the recount shall be delivered to the recount location prior to the commencement of the recount for set-up.

The Clerk or their designate shall be on-site at the recount location.

## **5.8 Amendment of Procedures**

Where the Clerk deems it necessary to provide clarification, interpretation or adjustment on any of the procedures described herein, the Clerk shall post the amended procedures to the City of Greater Sudbury election website prior to the start of any recount.

## **5.9 Electronic Voting Recount Process**

In accordance with the *Act*, the recount is to be conducted in the same manner as the original electronic voting count.

In the event of a recount, the system shall regenerate the election count and a printed copy of the regenerated count shall be given to the Clerk.

- If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast during the electronic voting period.
- If the regenerated count and the initial count do not match, the Clerk shall:

- Direct one final count to be regenerated by the system of the votes cast during the electronic voting period; and
- Attend while the final count is being regenerated.

The regenerated final count shall be the final count of the votes cast during the electronic voting period.

#### ***5.10 Electronic Voting Recount Results***

During the recount, the Clerk shall post for inspection the summary of the votes cast for each candidate for the office subject to the recount.

When the recount is complete, the Clerk shall announce the results of the recount.

As per the *Act*, if no application has been made for a judicial recount, the Clerk shall declare the successful candidates elected on the 16<sup>th</sup> day after the recount is completed.

#### ***5.11 Electronic Voting Recount Records***

At the conclusion of the recount, the Clerk shall secure all materials from the recount process.

The Clerk shall destroy recount materials in accordance with the retention period as prescribed in the *Act*.

## Definitions

**Act** - refers to the *Municipal Elections Act, 1996, S.O. 1996. c. 32*, as amended.

**Area** - refers to a contiguous geographic area represented by one or more district school trustees from the Rainbow District School Board (English Public Trustee), the Sudbury District Catholic School Board (English Separate Trustee) le Conseil Scolaire publique du Grand Nord de l'Ontario (French Public Trustee) or le Conseil Scolaire catholique du Nouvel-Ontario. The geographic area comprising the area may cover an entire a municipality, may be a portion of the municipality, or may include one or more municipalities or unorganized geographic townships or a combination of both.

**Auditors** - refers to the Auditor retained by the City of Greater Sudbury to conduct or supervise testing of the election equipment (hardware) and software.

**Ballot** - refers to internet-based electronic ballot images, which includes the names of all candidates for all offices being contested in the election in relation to a specific Ward and School Board.

**Ballot Style** - refers to one of any number of specific ballot configurations based on a voter's school support and ward.

**Blank Ballot** - refers to a ballot without marks in any of the designated voting spaces. See also *Appendix B*.

**Candidate** - refers to an individual who has filed a nomination paper which has been certified by the Clerk.

**City** - refers to the City of Greater Sudbury.

**Clerk** - refers to the person appointed by the Council of the City as City Clerk, who is also the Returning Officer for the Municipal and School Board Election.

**Count** - refers to the process of totalling votes.

**Election** - refers to an election conducted by the City of Greater Sudbury to fill the offices of Mayor and Ward Councillors, District School Board Trustees as approved by way of by-law, held under the authority of the *Act*.

**Election Day** - refers to the final day on which the vote is to be taken in an election and shall be Monday, October 22, 2018 with the close of voting to be at 8:00 p.m.

**Election Official** - refers to a person who has been delegated or assigned duties and/or responsibilities by the Clerk related to the conduct of the Municipal and School Board Election.

**Electronic Ballot Box** - refers to the internet-based ballot box containing the internet-based electronic ballot images cast by voters in the Municipal and School Board Election, which includes the number of votes cast for each candidate on the ballot and the total number of under-votes and blank ballots processed throughout the voting period.

**Electronic Voting** - refers to the process by which a voter casts their ballot using the internet. In order to vote using the internet, a voter must access the official election website using the required security credentials, and website address as provided in their Voter Information Letter.

**Electronic Voting Helpline** - refers to a telephone helpline to assist voters with any and all inquiries associated with electronic voting.

**Electronic Voting Location** - refers to the physical location established to conduct electronic voting. As per section 48(3) of the *Act*, the electronic voting location includes any place in the immediate vicinity of the electronic voting location as designated by the Clerk.

**Encrypt** - refers to the act of ciphering data using a secret code so as to be unintelligible to unauthorized persons.

**Logic and Accuracy Testing** - refers to the examination of a voting system and its components (in a simulated use environment) by the Auditor retained by the Clerk to validate performance of the electronic voting system in accordance with procurement requirements, and validate that the delivered system is, in fact, a qualified system.

**Marked Ballot** - refers to an electronic mark for the candidate and which has been made by a voter in the space provided on the electronic ballot to the right of the name of any candidate.

**Mobile Electronic Voting Location** - refers to the City of Greater Sudbury Transit bus which will be deployed to various sites throughout the City as a mobile electronic voting location at dates and times to be determined by the Clerk.

**Nursing and Retirement Home Electronic Voting Location** - refers to an electronic voting location established by the Clerk to attend to those persons within the City referred to in Section 45 of the *Act* and for which the Clerk has fixed the hours for conducting the vote of those electors, as provided for in Section 46(3) of the *Act*.

**Over-voted Ballot** - refers to a ballot on which a voter has voted for more candidates for an office than are to be elected to that office.

**Password** - refers to an additional access control word assigned to each authorized user to provide additional security for access to the voting system.

**Personal Identification Pin (PIN)** - refers to a unique multiple digit number assigned to each voter to provide security for access to the voting system.

**Proof of Identification** - refers to proof of identity and residence as prescribed in O. Reg. 304/13 of the *Act*.

**Recount** - refers to an additional count of ballots following voting day held in accordance with Sections 56 to 64, inclusive, of the *Act* and the *City of Greater Sudbury 2018 Municipal and School Board Election Recount Procedures*.

**Scrutineer** - refers to an individual, appointed in writing by a certified candidate, to represent them during the election.

**Tabulation** - refers to the same meaning as Count.

**Under-voted Ballot** - refers to a ballot on which the voter has voted for fewer than the total number of election contests listed on the ballot, or has voted for fewer than the number of positions to be filled for a single office. See also *Appendix B*.

**Vote Count Report** - refers to the printed record that is generated by the electronic voting system which represents the number of votes cast for each candidate on the ballot and the total number of under-votes and blank ballots processed throughout the voting period.

**Voted Ballot** - refers to a ballot on which an elector has indicated their choice and which has been successfully received by the electronic voting system and securely stored in the electronic ballot box.

**Voter** - refers to a person who meets the qualifications as determined under the *Act*, and appears on the Voters' List or is added thereto.

**Voter Information Letter** - refers to the letter containing election information, sent through regular mail by the Clerk to all eligible voters in the City of Greater Sudbury.

**Voters' List** - refers to a document distributed by the Clerk, which lists the names and voting entitlement of eligible electors in the City as provided by the Municipal Property Assessment Corporation in accordance with the provisions of the *Act*.

**Voting Period** - refers to the period from Monday, October 15, 2018 to Monday, October 22, 2018 for the conduct of a vote held under the authority of Section 43 of the *Act*.

**Ward** - refers to geographic area represented by a member of the City of Greater Sudbury Council.

**Zero Count Report** - refers to the printed report generated from within the Administrative module reports feature. The Zero Count Report is run after completion of the Logic and Accuracy Testing and prior to the official start of the voting period. The Zero Count Report ensures that no votes are stored in the electronic ballot box prior to the start of the voting period.

## Ballot Scenarios

All ballots accepted by the electronic voting system and stored in the electronic ballot box will be included in the Vote Count Report.

Type of Ballot	Definition	Process
Blank	Refers to a ballot without marks in any of the designated voting spaces.	<ul style="list-style-type: none"> <li>• The electronic voting system is programmed to provide a warning message to the voter if they have not made an electronic mark for one or more of the races in the election. The voter is provided the option of returning to the blank race(s) and making a selection.</li> <li>• The voter may choose to cast the ballot with one or more blank races.</li> <li>• Blank ballots are recorded by the system as blank and included in the vote count as blank.</li> <li>• Totals for blank ballots will appear on the Vote Count Report.</li> </ul>
Under-voted	Refers to a ballot on which the voter has voted for fewer than the total number of election contests listed on the ballot, or has voted for fewer than the number of positions to be filled for a single office.	<ul style="list-style-type: none"> <li>• In a race where there is <b>only one selection</b> to be made (i.e. Mayor or Ward Councillor), the electronic voting system will not count a vote for any candidate from an under-voted race; it will only report that an under-vote has occurred for that specific office. Voters will receive a warning message that the ballot is under-voted, but will not be prevented from casting an under-voted ballot.</li> <li>• In a race where there is <b>more than one selection</b> to be made (i.e. School Board Trustee) the electronic voting system will only count the vote for the selections that have been made.</li> <li>• Totals for under-votes will appear on the Vote Count Report.</li> </ul>

## Acceptable Forms of Identification

An original piece of identification must be presented that shows the voter's name and qualifying City of Greater Sudbury address (where you currently live or own property). There is no longer a requirement to show identification with a signature.

You must present one or more of the following documents as outlined in Ontario Regulation 304/13 as follows:

1. An Ontario driver's licence
2. An Ontario Health Card (photo card)
3. An Ontario Photo Card
4. An Ontario motor vehicle permit (vehicle portion)
5. A cancelled personalized cheque
6. A mortgage statement, lease or rental agreement relating to property in Ontario
7. An insurance policy or insurance statement
8. A loan agreement or other financial agreement with a financial institution
9. A document issued or certified by a court in Ontario
10. Any other document from the government of Canada, Ontario or a municipality in Ontario or from an agency or such a government
11. Any document from a Band Council in Ontario established under the *Indian Act* (Canada)
12. An income tax assessment notice
13. A Child Tax Benefit Statement
14. A Statement of Employment Insurance Benefits Paid T4E
15. A Statement of Old Age Security T4A (OAS)
16. A Statement of Canada Pension Plan Benefits T4A (P)
17. A Canada Pension Plan Statement of Contributions
18. A Statement of Direct Deposit for Ontario Works
19. A Statement of Direct Deposit for Ontario Disability Support Program
20. A Workplace Safety and Insurance Board Statement of Benefits T5007
21. A property tax assessment
22. A credit card statement, bank account statement, or RRSP, RRIF, RHOSP or T5 statement
23. A CNIB Card or a card from another registered charitable organization that provides services to persons with disabilities
24. A hospital card or record
25. A document showing campus residence, issued by the office or officials responsible for student residence at a post-secondary institution
26. A document showing residence at a long-term care home under the *Long-Term Care Homes Act, 2007*, issued by the Administrator for the home
27. A utility bill for hydro, water, gas, telephone or cable TV or a bill from a public utilities commission
28. A cheque stub, T4 statement or pay receipt issued by an employer
29. A transcript or report card from a post-secondary school

## Legislative and Regulatory References

Selected applicable sections of the *Municipal Elections Act, 1996* are as follows below. Please note that the full version of the *Municipal Elections Act* and its applicable Regulations is available online at <https://www.ontario.ca/laws/statute/96m32> .

### Section 11

(1) The Clerk of a local municipality is responsible for conducting election within that municipality, subject to the following exceptions:

*(Note: paragraphs 1 to 4 of subsection (1) have not been listed here as they are not applicable to the City of Greater Sudbury)*

- (2) Responsibility for conducting an election includes responsibility for,
- (a) preparing for the election;
  - (b) preparing for and conducting a recount in the election;
  - (c) maintaining peace and order in connection with the election; and
  - (d) in a regular election, preparing and submitting the report described in subsection 12.1
- (2). (identification and removal or barriers report to Council)

### Section 12

(1) A clerk who is responsible for conducting an election may provide for any matter or procedure that,

- (a) is not otherwise provided for in an *Act* or regulation; and
- (b) in the clerk's opinion, is necessary or desirable for conducting the election.

(2) The power conferred by subsection (1) includes power to establish forms, including forms of oaths and statutory declarations, and power to require their use.

(3) The power conferred by subsection (1) includes power to require a person, as a condition of doing anything or having an election official do anything under this *Act*, to furnish proof that is satisfactory to the election official of the person's identity or qualifications, including citizenship or residency, or of any other matter.

### Section 15

(1) When it is necessary to conduct an election, the clerk shall appoint a deputy returning officer for each voting place established under section 45 and may appoint any other election officials for the election and for any recount that the clerk considers are required.

(2) The clerk may delegate to a deputy returning officer or other election official any of the clerk's powers and duties in relation to an election, as he or she considers necessary.

(3) The clerk may continue to exercise the delegated powers and duties, despite the delegation.

(4) The delegation shall be in writing.

**Section 16**

- (1) A candidate may appoint scrutineers to represent him or her during voting and at the counting of votes, including a recount.
- (2) A municipality may appoint scrutineers in relation to voting on a by-law or question submitted to the electors, to attend at a voting place and at the counting of votes, including a recount.
- (4) An elector who applies for a recount under section 58 may appoint scrutineers to represent him or her at the recount.
- (5) The appointment of a scrutineer shall be in writing of made by a candidate or applicant or by the Minister, and by resolution if made by a municipality or local board.
- (6) A scrutineer shall, on request, show proof of his or her appointment to the election official in charge of a voting place or of a place where votes are being counted.

**Section 56**

- (1) The clerk shall hold a recount,
  - (a) of the votes for two or more candidates who receive the same number of votes and cannot both or all be declared elected to the office;
  - (b) of the votes on a by-law, if the votes for the affirmative and negative are equal;
  - (c) of the votes for two or more answers to a question, if the votes are equal.
- (1.1) The clerk shall hold a recount in accordance with any policy passed by the municipality or local board under subsection (3) or (4).
- (2) The recount shall be held within 15 days after the clerk's declaration of the results of the election.

**Section 57**

- (1) Within 30 days after the clerk's declaration of the results,
  - (a) the council of a municipality may pass a resolution requiring a recount of the votes cast,
    - (i) for all of specified candidate for an office on the council.
    - (ii) for all or specified answers to a question submitted by the council,
    - (iii) for an against a by-law submitted by the council;
  - (c) the Minister may make an order requiring a recount of the votes cast for all or specified answers to a question submitted by him or her.
- (2) The clerk shall hold a recount in accordance with the resolution or order, within 15 days after it is passed or made.

**Section 58**

- (1) A person who is entitled to vote in an election and has reasonable ground for believing the election results to be in doubt may apply to the Superior Court of Justice for an order that the clerk hold a recount.
- (2) The application shall be commenced within 30 days after the clerk's declaration of the results of the election.

(3) If satisfied that there are sufficient grounds for it, the court shall make an order requiring the clerk to hold a recount of the votes cast for all of specified candidates, on a by-law, or for all specified answers to a question, and shall give the clerk a copy of the order as soon as possible.

(4) The recount shall be held within 15 days after the day the clerk receives a copy of the order.

(5) The Minister may by regulation establish procedures for applications under this section.

(6) A request for a recount due to problems related to voting and vote-counting equipment may be made only under this section.

### **Section 59**

The clerk may conduct, as part of a recount under section 56, 57, or 58 that related to an office, a recount of the votes cast for another candidate in that office.

### **Section 60**

(1) A recount under section 56, 57 or 58 shall be conducted in the same manner as the original count, whether manually or by vote-counting equipment, subject to subsection (3).

(2) A recount shall be conducted in accordance with the prescribed rules, subject to subsection (3).

(3) If the judge who orders a recount under section 58 is of the opinion that the manner in which the original count was conducted caused or contributed to the doubtful result, he or she may, in the order, provide that the recount shall be held in a different manner and specify the manner.

### **Section 61**

(1) The following persons may be present at a recount under section 56, 57 or 58 that relates to an office:

1. The clerk and any other election official appointed for the recount.
2. Every certified candidate for the office.
3. The applicant, in the case of a recount ordered under section 58.
4. For each person referred to in paragraphs 2 and 3,
  - i. a lawyer, and
  - ii. one scrutineer for each recount station established by the clerk.

(2) The following persons may be present at a recount that related to a by-law or question:

1. The clerk and any other election official appointed for the recount.
2. The scrutineers appointed by the municipality or a local board or by the Minister, as the case may be.
3. The applicant, in the case of a recount order under section 58.
4. For the application referred to in paragraph 3,
  - i. a lawyer, and
  - ii. one scrutineer for each recount station established by the clerk.

(3) If the vote is on a by-law and scrutineers are to be appointed under subsection 16 (2),  
(a) equal numbers of scrutineers shall be appointed to represent supporters and opponents of the by-law; and

- (b) one scrutineer representing supporters and one representing opponents may be present for each recount station established by the clerk.
- (4) If the vote is on a question and scrutineers are to be appointed under subsection 16 (2) and (3),
  - (a) equal numbers of scrutineers shall be appointed for each possible answer to the question; and
  - (b) one scrutineer for each of the possible answers may be present for each recount station established by the clerk.

Any other person may also be present at the recount with the clerk's permission.

### **Section 62**

- (1) When the recount is complete, the clerk shall,
  - (a) announce the result of the recount; and
  - (b) if there are disputed ballots,
    - (i) announce the number of them, and
    - (ii) announce the result that would be obtained if the disputed ballots were excluded.
- (2) Any persons described in subsections 61(1), (2) and (7) who are at the recount are entitled to be present while the clerk acts under subsection (1).
- (3) If the recount indicates that two or more candidates who cannot both or all be declared elected to an office have received the same number of votes, the clerk shall choose the successful candidate or candidates by lot.
- (4) If no application has been made for a judicial recount under section 63 the clerk shall, on the 16<sup>th</sup> day after the recount is completed, declare the successful candidate or candidates elected or declare the result of the vote with respect to a by-law or question, as the case may be.

### **Section 64**

- (1) A candidate who has been declared elected under section 55 is entitled to sit and vote on the council or local board until the recount and all applications under this Act have been finally disposed of and a different candidate has been declared elected.
- (2) Decisions of a council or local board in which a candidate described in subsection (1) has participated are unaffected even if another candidate is afterwards declared elected as the result of a recount.

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Applicable sections of *Ontario Regulation 101/97 as amended by Ontario Regulation 326/16* are as follows:

### **Section 4**

The following rules are prescribed for the purpose of subsection 60(2) of the Act:

- 1. The clerk shall give notice of the recount to:
  - i. every candidate for an office that is subject of the recount,

- ii. in the case of a recount requested under subsection 57(1) of the Act, the council, local board or Minister as the case may be,
- iii. in the case of a recount ordered under section 58 of the Act, the applicant, and
- iv. in the case of a recount concerning an office, question or by-law in respect of which electors in another municipality are entitled to vote, the clerk who was responsible for the conduct of the vote in that other municipality.

3. The clerk shall reject from the count all ballots and votes in a ballot that do not comply with the rules set out in subsection 3(2).

4. The clerk may conduct the recount by adding the votes from the statements of results prepared by the deputy returning officer under subsection 55(1) of the Act, rather than by following rules 2 and 3, if a recount under those rules is waived by,

- i. each candidate subject to the recount under section 56, 57, 58, or 59 of the Act who is present, in the case of a recount in an election for office,
- ii. the council that submitted the by-law, in the case of a recount in an election to obtain the assent of the electors to a by-law,
- iii. the Minister, council or local board that submitted the question, in the case of a recount in an election to obtain the opinion of the electors on a question, and
- iv. the applicant, if he or she is present, in the case of a recount ordered under section 58 of the Act. O. Reg. 101/97, s. 4.