

The Corporation of the Town of Essex

By-Law Number 2525


Being a by-law to adopt a Municipal Election Recount Policy.

WHEREAS pursuant to Section 56 (3) of the *Municipal Elections Act, 1996*, a municipality may, by By-Law, adopt a policy with respect to the circumstances in which the municipality requires the Clerk to hold a recount of the votes cast in an election;

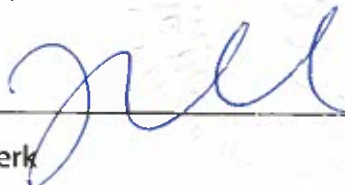
Now therefore be it resolved that the Council of The Corporation of the Town of Essex enacts as follows:

1. That By-Law 2115 be repealed and replaced by this By-Law 2525;
2. That the Town of Essex Municipal Election Recount Policy attached hereto as Schedule A to this By-law be adopted; and
3. That this by-law comes into effect on the day of final passage.

Read a first, a second and a third time and finally passed on April 7, 2025.



Mayor



Clerk

Schedule 'A'

Town of Essex Clerk's Recount Procedures

1. Authority

Any election results recount (the "**Recount**") shall be conducted by the Town of Essex Municipal Clerk (the "**Clerk**") in accordance with the provisions of the *Municipal Elections Act, 1996* ("**MEA**") and any regulations made thereunder.

2. Timing

The Recount shall commence within 15 days following election day official results declaration by the Clerk to which such Recount applies, by a resolution by council or local board or an order by the Minister of Municipal Affairs and Housing or a court of competent jurisdiction.

3. Location

The Recount shall be held at the Town Hall building at 33 Talbot Street South or at such other Town-owned facility that may be determined and announced by the Clerk.

4. Notice

The Clerk shall give written notice to every certified candidate for the office to be recounted using the preferred contact information provided by such candidate for the applicable Town election and by posting notice on the Town's website.

5. Recount Procedures

The Clerk shall appoint election officials for the purpose of the Recount and may designate their titles and duties. The Clerk may delegate to any election officials any of the Clerk's powers and duties in relation to the election, as the Clerk considers necessary as per sections 15(2)&(3) of the MEA.

In accordance with subsection 60(1) of the MEA, the Recount shall be conducted in the same manner as the original count conducted for the applicable election.

In accordance with subsection 42 (4)(3) (ii) of the MEA, at a Recount using vote counting equipment, more specifically optical scanning vote tabulators, the persons referred to in subsection 61 (5) namely, certified candidates, lawyers representing certified candidates, and scrutineers representing certified candidates, are not entitled to examine each ballot as the votes are being counted by the Clerk.

6. Location Set-up

The ballot boxes, vote tabulators and other supplies and materials used for the Recount will

be set up at the Recount location prior to the commencement of the Recount.

There shall be recount stations established, consistent with the number of vote tabulators or polls used during the applicable election.

The recount area will comprise 2 zones:

1. The recount area (consisting of the recount stations and the results area); and
2. The observation area.

7. Who May be Present

In accordance with sections 61 (1) and 61 (7) of the MEA, the following persons are entitled to be present at the recount:

1. The Town's Clerk, their designate, the Town's elections coordinator ("**Elections Coordinator**") and any other election official appointed for the Recount.
2. Every certified candidate for the office subject to the Recount.
3. For every such certified candidate:
 - a. One (1) lawyer; and
 - b. One (1) scrutineer for each Recount station established by the Clerk.
4. Any other person with the Clerk's permission.

If for any reason, the Clerk or Elections Coordinator believe that any of the individuals named above are disrupting the Recount procedures, the Clerk, their designate or Election Coordinator shall provide a verbal warning that the individual's conduct is disruptive and then shall have the right to ask the individual to leave the premises and not return if the individual's behavior is not corrected.

8. Candidates / Scrutineers / Legal Counsel

As per MEA, section 61(1), candidates may appoint scrutineers or legal counsel in writing to represent them at the Recount.

Scrutineers and legal counsel must show their written appointment to election officials upon entering the recount area and must sign in and take an Oath of Secrecy.

No cellular phones, cameras, recording devices or other such communication devices shall be used in the recount or observation area by anyone other than an election official.

Once the vote counting has been completed for a recount station and the results tape has been produced from the tabulator, if the total number of scrutineers representing a candidate, exceeds the number of remaining recount stations, one (1) scrutineer must leave the recount area, but may remain in the observation area.

9. Programming and Testing of the Vote Tabulators

The vote tabulators shall be programmed for the Recount in the same manner as on election day of the election to which the Recount applies.

Prior to the Recount, the vote tabulators will be logic and accuracy tested in accordance with the Town of Essex Procedures for 2026 Vote and Vote Counting Equipment.

10. Use of Vote Tabulators

The election officials at each recount station shall be assigned a vote tabulator, new "holding" ballot box, and the original, sealed ballot box containing the ballots cast for the applicable election.

In full view of any scrutineers present at the recount station, the election officials shall:

1. Print a zero tape from the vote tabulator indicating the correct polling station identifier, before confirming '0' totals.
2. If the totals are '0' for all candidates, the election official shall initial and ensure that the '0' printout remains affixed to the vote tabulator until the results are printed by the vote tabulator after the completion of the Recount.
3. If the totals are not '0' for all candidates, the election official shall not proceed until the vote tabulator is made operational or a back-up tabulator is provided.
4. When the totals are '0' for all candidates, the election official shall open the original ballot box, remove all ballots to the holding box, and begin to feed ballots face down into the vote tabulator.

In accordance with subsections 42 (4)(3) (ii) of the MEA, at a recount, the persons referred to in subsection 61 (5) namely, certified candidates, lawyers representing certified candidates, and scrutineers representing certified candidates, are not entitled to examine each ballot as the votes are being counted by the Clerk.

All ballots in the ballot boxes were accepted by the vote tabulator on either advance voting or election day. The elector who cast their ballot is no longer present but previously instructed an election official to cast the ballot with the voter's intent. Therefore, should a vote tabulator indicate an error on a ballot for either of the reasons noted below, the election official shall press the vote tabulators "cast" button to accept the ballot into the vote tabulator:

1. Where there are no marks in all of the designated voting spaces;
2. Where more designated voting spaces are marked for the office than the elector is entitled to vote.

Where there are marks in the designated voting space, but the vote tabulator is unable to count the votes on a ballot because the ballot was damaged after being accepted by the vote tabulator, the election official shall deliver the ballot to the Clerk, who shall:

1. Assign the original ballot a specified serial number which shall be recorded on both the original and duplicate ballot. In the presence of the scrutineers, the duplicate ballot shall be marked as an exact representation of the original cast ballot.
2. The election official shall wait and not feed any additional ballots into the vote tabulator until the replacement ballot is received and fed into the vote tabulator.

After all the ballots from the ballot box have been fed into the vote tabulator, the election official shall:

1. Obtain a printed record of the votes given for each candidate.
2. Remove the printed record from the vote tabulator.
3. Sign the certificate portion of the printed record along with any scrutineers who are present and wish to sign.
4. Place a ballot box seal on the ballot box, sign the seal and deliver the ballot box to the election officials at the results area.
5. Deliver the results tape and tabulator to the election officials at the results area.

11. Inspection of Spoiled Ballots

1. In accordance with the MEA, section 60(1), all spoiled ballots contained in envelopes for each original polling location, which were not accepted by the vote tabulator during the advance polls or on election day to which the Recount applies, will be available for review.
2. No spoiled ballots will be fed into the vote tabulators or counted.

12. Results

During the Recount, the Clerk or designate election official shall post for inspection, a copy of the results tapes from each of the vote tabulators as they are produced.

The results from each of the vote tabulators shall be compiled.

When the Recount is complete, the Clerk shall declare the total results of the Recount in accordance with subsection 62(1) of the MEA.

13. Recount Records

The Clerk shall maintain a documented record of all activities undertaken during the Recount, including the names and affiliations of attendees, ballot box seals, any objections, any verbal warnings, and any other instances that may occur. At the conclusion of the Recount, the Clerk shall secure the ballots, vote tabulators and other materials from the Recount.

