





Elections Nunavut

2019

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 Elections Nunavut

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Recount by Justice of the Peace for Municipal Elections

A Recount by a Justice of the Peace can be applied-for in one of the following circumstances:

A. An Administrative Recount results in a Tie-vote, and the candidates do not agree to have a draw of the tied candidates' names to declare the winning candidate.

1. The Returning Officer must apply for a recount using the form: **Justice of the Peace Recount Application- from the Returning Officer. [FORM 21]**
2. The Justice of the Peace may dismiss the application, before or during the hearing, if it appears to be frivolous, vexatious or unfounded, however, this is not likely in the case of a tie-vote.
3. The Justice of the Peace decides on the date, time and place to conduct the recount – within 10 days of receiving the application, or as soon as possible thereafter.
4. Once the Justice of the Peace has chosen a date for the recount, he/she will issue a summons to the returning officer to attend with the election material.
5. The Justice of the Peace, with assistance from the Returning Officer and/or Elections Nunavut staff, is responsible for notifying each candidate of the date, time and place of the application. Use the form **Justice of the Peace (JP) Recount: Notice to Candidates. [FORM 23]**, and keep a record of how each candidate has been notified – use the form **Justice of the Peace Recount – Record of Notice to Candidates. [FORM 24]**
6. If Special Ballots by mail have been issued and retained in a separate ballot box by Elections Nunavut at another location, an additional Justice of the Peace at that location may be required to verify the ballots from that ballot box, and to provide the information to the presiding Justice of the Peace.

B. Any voter applies to the Justice of the Peace before the end of the 4th day after the declaration of the election result.

1. The Chief Electoral Officer, who is a voter, can also use this procedure in appropriate cases.
2. This application can be made in any election if there are appropriate grounds. It can be made when there is no automatic recount or at the same time as an automatic recount, but that case is not very likely. The voter should use the form: **Voter Application for Justice of the Peace (JP) Recount. [FORM 22]**
3. The Justice of the Peace may dismiss the application, before or during the hearing, if it appears to be frivolous, vexatious or unfounded.
4. A voter may only make an application for a Recount by a Justice of the Peace for the following reasons:
 - i. a deputy returning officer improperly counted the votes or improperly rejected any ballot papers;
 - ii. a deputy returning officer made an incorrect statement of the number of votes cast for any candidate; or
 - iii. the returning officer improperly added up the votes.
5. The voter must set out, in the application or in additional documents, the facts that justify the application.
6. The voter must sign the statutory declaration that establishes these facts on the correct section of **Voter Application for Justice of the Peace (JP) Recount. [FORM 22]**
7. The Justice of the Peace decides on the date, time and place to conduct the recount – within 10 days of receiving the application, or as soon as possible thereafter.

8. If the Justice of the Peace so orders, the voter must give the Justice of the Peace and other parties additional information or documents.
9. The voter can ask the Justice of the Peace to extend the time limits respecting recounts.
10. Once the Justice of the Peace has chosen a date for the recount, he/she will issue a summons to the returning officer to attend with the election material.
11. If Special Ballots by mail have been issued and retained in a separate ballot box by Elections Nunavut at another location, an additional Justice of the Peace at that location may be required to verify the ballots from that ballot box, and to provide the information to the presiding Justice of the Peace.
12. The Justice of the Peace, with the assistance of the Returning Officer and/or Elections Nunavut staff, is responsible for notifying each candidate of the date, time and place of the application. **Use the form Justice of the Peace (JP) Recount: Notice to Candidates. [FORM 23]**, and keep a record of how each candidate has been notified – use the form **Justice of the Peace Recount – Record of Notice to Candidates. [FORM 24]**
13. The voter must attend the recount
14. The returning officer will attend, and the CEO or a designate may also attend the recount.
15. Each candidate, or his or her representative, and each candidate's lawyer may also attend the recount.
16. If a candidate is not present or represented at a Recount by Justice of the Peace, any three voters who ask to attend on behalf of the candidate are entitled to attend.
17. No other person shall be present at the recount except with the permission of the Justice of the Peace.
18. The voter must be prepared to justify why there are reasons to hold a recount. Only three reasons (explained above) can justify this.
19. The Chief Electoral Officer, Returning Officer, and the candidates may make arguments too.
20. On the day appointed for the recount, the Justice of the Peace will hear the arguments from the voter and decide whether to proceed with a recount.
21. If the voter justifies the recount, the Justice of the Peace will begin a physical recount of all the ballots.

Conducting the Recount

1. On the day appointed for the recount, the Justice of the Peace will begin a physical recount of all the ballots.
2. The spoiled ballots are not counted.
3. All other ballots cast in the community must be recounted, including the rejected ballots.
4. All Special Ballots by mail held in another community by Elections Nunavut must be recounted, including the rejected ballots – an additional Justice of the Peace must be engaged to perform these duties.
5. The ballot boxes for each Poll must be opened one by one. The ballots for each Poll should be counted together and the results separately recorded for each Poll.
6. If a Poll was combined with another Poll to protect the secrecy of the vote, the results also should be combined.
7. Only the Justice of the Peace or persons authorized by the Justice of the Peace are permitted to touch and handle the envelopes, documents and ballot papers. However, any party may ask to see how each ballot paper is marked.

Step-by-Step Procedure for Recount by Justice of the Peace



Preparation

- Open the **Justice of the Peace Recount Envelope** - it has everything you need to recount.
- The Justice of the Peace (JP) can use clerical assistants to help perform the recount, but will need approval from the Chief Electoral Officer (CEO) to do so.
- Usually the Chief Electoral Officer (CEO) / Returning Officer or someone from Elections Nunavut will help.

Continuity of Proceedings

- A recount should not be adjourned or interrupted once it has started.
 - The JP shall, as much as possible, keep going with the recount until it is finished.
 - Recesses for refreshment should only be allowed if necessary.
- Sealing if a recess is needed
 - During a recess at a recount, the ballot papers and other documents must be kept enclosed in packages under the seal of the Justice of the Peace.
 - A candidate or other person authorized to attend at the recount may also place a seal on the packages.

Accepting Ballots

Reasons NOT to reject a ballot, or a contest on a ballot:

- ❖ If a special ballot [with candidate name(s) written-in], has an incorrectly spelled name of a candidate but the ballot clearly shows the voter's choice(s).
- ❖ The DRO placed a note, number or mark on the ballot.
- ❖ The DRO did not initial the ballot.
- ❖ The ballot was marked using a writing tool other than a black lead pencil.
- ❖ If there is at least one choice marked, and up to the maximum number of choices allowed for the election contest on the ballot.
 - 1 to 8 choices - in a contest for Municipal Council. (1 to 6 choices for Grise Fiord)
 - 1 choice only - in a contest for Mayor.
 - 1 to 7 choices – in a contest for DEA (1 to 5 choices for CSFN)
 - 1 to ? choices – in a contest for an Alcohol Education Committee (the number of positions for an AEC is different for each committee)

Rejecting Ballots

VALID reasons to reject one election contest on a ballot are:

*NOTE: if there are two election contests on one ballot, one contest may be rejected while the other contest may still be accepted.

- ❖ Choices were marked with other than a cross or checkmark or other mark clearly indicating the voter's intention.
- ❖ Choices were not marked for any candidate (all choices blank).
- ❖ The ballot was marked for more than the maximum choices allowed:
 - 8 choices - in a contest for Municipal Council. (6 choices for Grise Fiord)
 - 1 choice - in a contest for Mayor.
 - 7 choices – in a contest for DEA (5 choices for CSFN)
 - ? choices – in a contest for an Alcohol Education Committee (the number of positions for an AEC is different for each committee)

VALID reasons to reject a complete ballot (with one or more contests on the ballot) are:

- ❖ Ballot was not supplied by Elections Nunavut.
- ❖ Ballot was marked in a place other than the circular spaces provided for marking choices (or it was marked on the back).
- ❖ Ballot was marked in a way that might identify the voter.

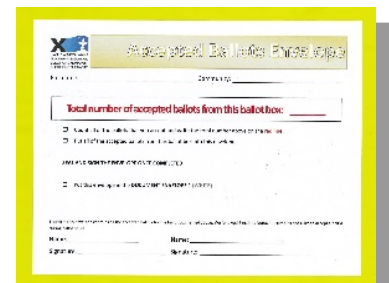
Step 1 – Opening the Ballot Boxes

1. Work only with one poll at a time (usually contained in only one ballot box).
2. After opening a ballot box, the contents should be placed on the table.
3. For each poll, you will find Yellow and Red envelopes:

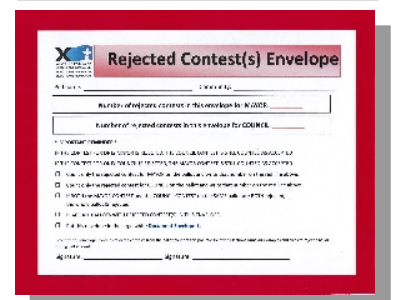
- **Yellow Envelope(s)** for **“Accepted Contests”** or **“Accepted Ballots”** (These will contain only valid ballots for the poll.)

- **Red Envelope(s)** for **“Rejected Contests”** (These can contain both fully-rejected and partly-rejected ballots - when two election contests are each printed on the same ballot – like for Mayor and Council on different sides.)

OR **“Rejected Ballots”** (These contain rejected ballots when only one election contest is printed on the ballot – like for only Mayor, or for only Council.)



A yellow envelope form titled "Accepted Contests" with a header for "Municipal Council, Grise Fiord". It includes a section for "Total number of accepted ballots from this ballot box" and a list of contests with checkboxes for "Accepted" and "Rejected".

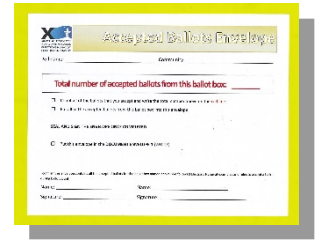


A red envelope form titled "Rejected Contest(s) Envelope" with a header for "Municipal Council, Grise Fiord". It includes a section for "Number of rejected ballots from this envelope" and a list of contests with checkboxes for "Accepted" and "Rejected".

Step 2 – Recounting the Ballots

(See NEA s. 131(3) and (5) for more detailed information)

- Open the “**Accepted Contests**” or “**Accepted Ballots**” Envelope containing only valid ballots.



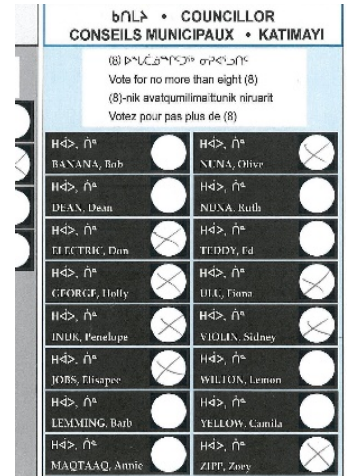
2A - If you are recounting a contest or ballot with multiple choices (i.e. for Councillor or DEA):

- **Recount the ballot papers.**
 - If there is more than one election contest on the ballots you are counting you must remember that you are counting only one section of each ballot (for example- only the side of the ballot for COUNCILLOR).
 - Take one ballot paper at a time (unfold if folded). Look to see how many choices are allowed, and say how many choices are marked on that section of the ballot.
 - Call out the names of the candidates (one at a time), that are marked in that section.

(EXAMPLE: There can be **EIGHT** choices or less marked in the section for the **Councillor** contest on each ballot).

Exception – in the community of Grise Fiord six choices or less.

 - Use the example sheet for accepting/rejecting ballots if it is helpful.
 - Place all accepted ballot papers in a pile on the table.



- **Record the recount** on the correct Tally Sheets for the contest you are recounting.
 - A person selected by the JP will keep a written record of the recount using a Tally Sheet.
 - Write the names of all the **candidates** along the top of the Tally Sheet (use as many sheets as needed for more candidate names).
 - An X is made on the Tally sheet as each **candidate name** marked on a ballot is called.
 - Any other person who is present and witnessing the recount may use extra tally sheets for their own record.

Municipal Election Hamlet Councillors Page 1 of

Constituency: Hookayville Community: Dundas Harbour Poll Name: A-Z

Candidate:	Candidate:	Candidate:	Candidate:	Candidate:	Rejected ballots
<u>Bonnie</u>	<u>Dean</u>	<u>Electric</u>	<u>George</u>	<u>Inuk</u>	
X	X	X	X	X	5
X	X	X	X	X	10
X	X	X	X	X	15
X	X	X	X	X	20
X	X	X	X	X	25

- **Rejecting a previously accepted** contest section on the ballot.
 - If the JP finds a ballot that was accepted, but should have been rejected, set it aside.
 - Place the ballot with the contents of the **“rejected contests”** or **“rejected ballots”** envelope.
 - See **Step #3** to know when to reject **only one contest section** of a ballot, or **the whole ballot**.

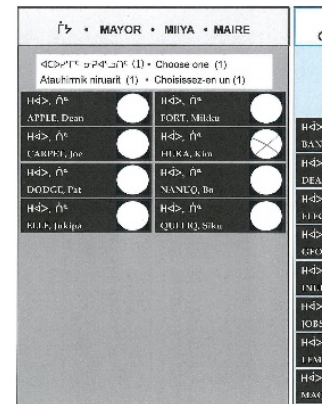
➤ **Objections**

- A candidate or candidate’s legal counsel may object to a decision to either accept or reject all or part of a ballot paper.
- When an objection is made, the JP must decide whether all of the ballot, or one contest section on the ballot should be accepted and counted as valid, or rejected.
- The JP is the only person who can decide whether the ballot should be accepted or rejected.

2B - If you are recounting a contest or ballot with only one choice (i.e. Mayor):

➤ **Recount** the ballot papers.

- If there is more than one election contest on the ballots you are counting you must remember that you are counting only one section of each ballot (for example- only the side of the ballot for MAYOR).
- Take one ballot paper at a time (unfold if folded) and call out the name of the candidate marked on the **“Mayor”** contest section of the ballot paper (only ONE choice can be marked in the section for the **Mayor** contest on each ballot).
- Use the example sheet for accepting/rejecting ballots if it is helpful.
- Place all ballot papers in a pile on the table.



➤ **Record** the recount on Tally Sheets for the **Mayor** contest.

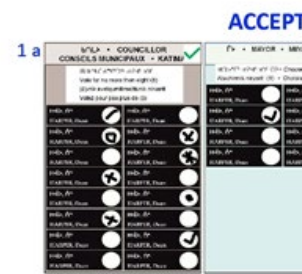
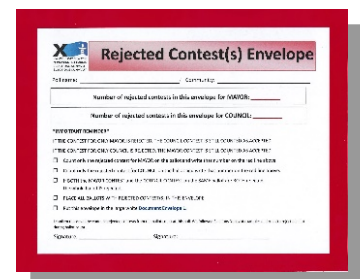
- A person selected by the JP will keep a written record of the recount using a Tally Sheet.
- Write the names of all the **Mayor candidates** along the top of the Tally Sheet (use as many sheets as needed for more candidate names).
- An X is made on the Tally sheet as each **Mayor candidate** name marked on the ballot is called.
- Any other person who is present and witnessing the recount may use extra tally sheets for their own record.

Municipal Election Mayor						Page <u>1</u> of <u>1</u>
Community: <u>Hockeyville</u>		Poll Name: <u>A-2</u>		Number of total Candidates: <u>5</u>		
Candidate:	Candidate:	Candidate:	Candidate:	Candidate:	Rejected ballots	
<u>Crosby</u>	<u>Gretzky</u>	<u>Lemicux</u>	<u>Ovechkin</u>	<u>Tootao</u>		
X	X	X	X	X		5
X	X	X	X	X		10
		X	X	X		15
						20
						25

- **Rejecting a previously accepted Mayor contest section on the ballot.**
 - If the JP finds a ballot that was accepted but should have been rejected, it should be set aside.
 - Place the ballot with the contents of the **“rejected contests”** or **“rejected ballots”** envelope. See **Step #3** to know when to reject **only one contest section** of a ballot, or **the whole ballot**.
- **Objections**
 - A candidate or candidate’s legal counsel may object to a decision to either accept or reject a ballot paper.
 - When an objection is made, the JP must decide whether all of the ballot, or one contest section on the ballot should be accepted and counted as valid, or rejected The JP is the only person who can decide whether the ballot should be accepted or rejected

Step 3 – Looking at Rejected Ballots

1. **Open the envelope of Rejected Contests** for the Poll only after all the accepted ballots for a poll have been recounted
2. **Examine all the rejected ballots**
 - Examine each ballot previously rejected by the Deputy Returning Officer (DRO) – use the example sheet for accepting/rejecting ballots.
 - Check that each of these contests or ballots was properly rejected.
 - Only valid reasons to reject a contest or ballot should be followed.
 - There are also some special reasons NOT to reject a contest or ballot. See the **Rejecting Ballots** section above.



3. **Place all rejected ballots in a separate pile**
 - How to accept a previously rejected ballot.
 1. Count it as valid for the correct candidate(s),
 2. Place the ballot with the other **“accepted ballots”** or **“accepted contests”** if no contest on the ballot is now rejected.
4. **Update the counts if there have been any Accepted contests which are now rejected, or if any Rejected contests are now accepted. Use the correct **“Statement of the Poll”** form.**

Step 4 – Repeat steps 1-3 for any additional polls (ballot boxes) that have not yet been recounted.

Step 5 – Recording the Count

- The results for each Poll (from the **“Statement of the Poll”** forms) should be recorded on the proper part of the form **Certified results of Justice of the Peace Recount [FORM 26]**.
NOTE: If the recount of a contest results in two or more candidates having an equal number of votes for the position (for mayor) or for the last remaining position (for other contests with multiple vacancies: such as Council, DEA, or AEC), the winner will be chosen by draw performed by the Justice of the Peace. (see Step 6)
- Once the form **Certified results of Justice of the Peace Recount** is complete, it should be signed by the JP and provided to Elections Nunavut for publishing.

Step 6 – In the Case of a Tie-Vote after the Justice of the Peace Recount

(if there is no tie, go to Step 7)

The winner will be chosen by draw performed by the Justice of the Peace, who will:

1. Write the candidate names separately on blank pieces of same-sized paper
2. Fold the pieces of paper so that the names are hidden
3. Deposit them in a receptacle
4. Take out one of the pieces of paper from the receptacle; and
5. Declare as elected the candidate whose name is on the paper taken out by the JP, using the form **Certified results of Justice of the Peace Recount [FORM 26]**.
6. **Check the box** that shows that the winning candidate in a TIE VOTE was determined by draw.
7. Once the form **Certified results of Justice of the Peace Recount** is complete, it should be signed by the JP and provided to Elections Nunavut for publishing.

Step 7 – Sealing and Repacking the Ballot Boxes

- Place all valid ballots for the poll into the **“Accepted Contests”** or **“Accepted Ballots”** envelope provided by Elections Nunavut, and seal it.
- Place all ballots with a rejected contest, and ballots completely rejected into the **“Rejected Contests”** or **“Rejected Ballots”** envelope provided by Elections Nunavut for that poll, and seal it.
- Place all envelopes for a poll into **“Documents Envelope 2”** (if provided). Then seal that envelope and place it into the ballot box for that Poll.
- If any other document envelopes have been opened, they should be resealed or placed in any new envelopes provided, and sealed.
- Once all the envelopes are inside the ballot box for the poll, seal it using numbered ballot-box seals that have been provided.
- The JP must personally supervise the packaging and sealing of ballot papers and documents at a recount.
- The JP must take all necessary precautions for the security of the papers and documents.

List of Forms

Elections Nunavut Form 21	Returning Officer Application for Justice of the Peace Recount
Elections Nunavut Form 22	Voter Application for Justice of the Peace Recount
Elections Nunavut Form 23	Justice of the Peace Recount-Notice to Candidates
Elections Nunavut Form 24	Justice of the Peace Recount-Record of Notice to Candidates
Elections Nunavut Form 25	Certified Results of Justice of the Peace Recount

JUSTICE OF THE PEACE RECOUNT APPLICATION- FROM THE RETURNING OFFICER



Part I. Under Section 224.18(5) of the *Nunavut Elections Act*, if an administrative recount results in an equality of votes between the candidates, and the tie-vote has not been settled by a draw [Section 224.18(6)] the returning officer shall apply to a **Justice of the Peace** for a recount under section 224.19.

Part II: I _____, am the Returning Officer for the election held on
Returning Officer Name

_____, 20___ in the community of _____,

for: **Mayor** or **Council** or
 DEA / CSFN or **Alcohol Education Committee**

I am applying for a Justice of the Peace recount for this election, and in support of this application, I attach a copy of the election report for the election.

I understand that: -I must attend the recount.
-I may be required to provide more information.

Dated at the Community of _____, Nunavut, this ___ day of _____, 20___

X _____
signature

Address: _____ Phone: (____) _____ Email: _____

The Returning Officer or an Elections Nunavut staff member shall NOTIFY all the candidates from the election that this application has been made, and shall keep an official record of the date, time, and method of notification.

VOTER APPLICATION FOR JUSTICE OF THE PEACE (JP) RECOUNT



Part I. Under Section 224.19 of the *Nunavut Elections Act*, any voter may apply to a **Justice of the Peace (JP)** for a recount by the end of the 4th day after the declaration of the result in a municipal election by the Returning Officer.

Part II: I am a qualified voter, and I want to apply for a **Justice of the Peace** recount in the election held on _____, 20____ in the community of _____,

for: Mayor or Council or DEA / CSFN or Alcohol Education Committee

because the Returning Officer or Deputy Returning Officer: (choose any that apply)

- improperly counted the votes or improperly rejected any ballots;**
- made an incorrect statement of the number of votes cast for any candidate; or**
- improperly added up the votes.**

Part III: Here are the facts that support my application:
(Also list any additional documents that are attached to this application.)

Part IV: I understand that: -I may be required to provide more information.
-I must attend the recount if the JP decides to hold one.
-I must be ready to explain to the JP why it is necessary to hold a recount.
-The JP may dismiss this application.

I swear or affirm that the facts that I have provided in this application, and in any additional documents attached to this application, are true.

_____ X _____
printed name of applicant *signature of applicant*

Address: _____ Phone: (____) _____ Email: _____

Sworn (or affirmed) before me at the Community of _____, Nunavut, this _____ day of _____, 20_____.

_____ X _____ _____
printed name of authorized person *signature of authorized person* *date my commission expires (if applicable)*

- Returning Officer Notary Public Commissioner of Oaths Justice of the Peace RCMP

Part VII: Justice of the Peace Decision for Recount Application

This application for a Justice of the Peace recount was received on _____, 20_____.

- A Justice of the Peace Recount of the votes cast at the election will be held by the presiding Justice of the Peace
- This application is dismissed because it appears to be frivolous, vexatious, or unfounded.

_____ X _____ _____
Justice of the Peace *Signature* *Date*

JUSTICE OF THE PEACE (JP) RECOUNT- RECORD OF NOTICE TO CANDIDATES:



For the election held in the community of _____

on _____, 20____ for: Mayor or Council or DEA / CSFN or AEC

I, _____, of _____,
Name of: Returning Officer or Elections Nunavut staff *Community*

Certify that I have provided the candidates listed below, a copy of:

- Application for a Justice of the Peace Recount** from: (circle one) a Returning Officer / a voter
OR
 Notice of Justice of the Peace Recount as issued by the Justice of the Peace.

The document noted above is dated the _____ day of _____, 20____.

Candidate Name	Telephone	House number or street address, Email or fax	Date	Time	Notified:
					<input type="checkbox"/> In Person <input type="checkbox"/> E-mail <input type="checkbox"/> FAX
					<input type="checkbox"/> In Person <input type="checkbox"/> E-mail <input type="checkbox"/> FAX
					<input type="checkbox"/> In Person <input type="checkbox"/> E-mail <input type="checkbox"/> FAX
					<input type="checkbox"/> In Person <input type="checkbox"/> E-mail <input type="checkbox"/> FAX
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					<input type="checkbox"/> In Person <input type="checkbox"/> E-mail <input type="checkbox"/> FAX

X _____
Signature of Returning Officer or Elections Nunavut Staff *completion date*

CERTIFIED ELECTION RECOUNT RESULTS: RECOUNT BY JUSTICE OF THE PEACE



Community: _____ Election Held on _____, 20__

Election for: one Mayor Councillor DEA (CSFN) AEC
(Use this form for Recount by Justice of the Peace)

Candidate Name	Number of Votes			Status:
	All Early and Regular Polls	Special Ballot # received from HQ	Total Votes	
1	+	=		<ul style="list-style-type: none"> • Elected • Elected by Draw • Not Elected
2	+	=		
3	+	=		
4	+	=		
5	+	=		
6	+	=		
7	+	=		
8	+	=		
9	+	=		
10	+	=		
11	+	=		
12	+	=		
13	+	=		
14	+	=		
15	+	=		
16	+	=		
Number of rejected ballots		+	=	
Number of voters				

I certify the number of votes cast in favour of each candidate to be accurate.

Name of Justice of the Peace

Signature

Date

Tie Vote Draw (if required)

The Justice of the Peace Recount resulted in a Tie Vote. **The presiding Justice of the Peace determined the winning candidate(s) by draw.**

