

Town Meeting & Elections

Chapter 11

Secret Ballot – Inspection and Recount



- Town Meeting & Elections Manual, revised 2015
- Voter Registration & Election Manual
- Title 30A MRSA Sections 2530-2533
- Your town's attorney
- Clerk mentors



resources

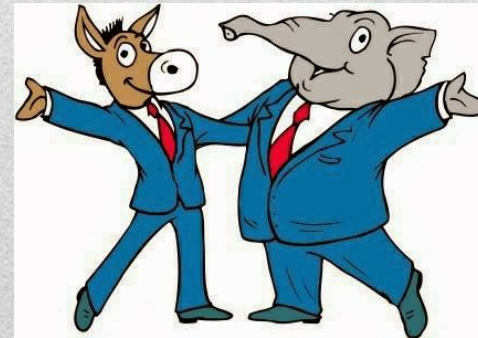


- An inspection or recount can only take place after a secret ballot election, since there is no provision in state law for inspection or recount of written ballots after adjournment of an open town meeting.
- After a secret ballot election, tied or losing candidates can request inspection and/or recount of the ballots.
- The principal difference between an inspection and a recount, is that an inspection allows candidates the opportunity to examine ballots, but cannot alter the election results, but a recount can affect the outcome since the ballots are actually counted again.
- No inspection provision is available in referendum elections.

general



- If a moderator determines that the vote for an office is tied in a secret ballot election, they should call for a motion to adjourn to a date certain, so that a run-off election between only the tied candidates can be held on that date. In the meantime, tied and losing candidates can pursue ballot inspection and recount, which may result in the tie being broken by the recount. Also, candidates may withdraw before the run-off election is held.
- If a moderator determines that a vote for a referendum issue is tied, the issue fails, but a recount may still be requested.



tie votes





- A candidate seeking to request an inspection of the ballots and incoming voter list or a recount of the ballots must make written application to the municipal clerk within 5 business days after the election.
- To calculate the 5 day deadline:
 - Do not include the day of the election
 - Do not include weekends and holidays
- If the clerk doesn't have business hours on the 5th business day, they should hold hours and notify candidates in advance on what the open hours will be.

request for inspection and recount deadline



- A deposit is not required for an inspection, but the clerk may charge a fee to cover the costs to administer the inspection.
- A deposit is required for a recount if the percentage difference between the official tabulation from the losing candidate (requesting inspection or recount) to the nearest winning candidate is equal to or less than:
 - 2½%, if the combined vote for candidates is 1,000 or less
 - 2%, if the combined vote for candidates is 1,001 to 5,000
 - 1½%, if the combined vote for candidates is over 5,001
- The deposit amount is determined by the municipal clerk and must be 50% of the reasonable estimate of the cost to hold a recount, including the meeting space, staff and supplies.

deposit required





- The inspection and/or recount must be held as soon as reasonably possible after the clerk receives the candidate's written request along with any deposit that may be required.

deadline for action on request



- The candidate requesting an inspection must do so in writing, and detail whether they wish to do a random inspection or complete inspection of the ballots and the incoming voter list.
- Once a request is received, the clerk must give written notice to the meeting moderator (or ward officers in a city) and all candidates, which must state the time and place of the inspection and provide the candidates a reasonable opportunity to be present or to be represented by counsel or an agent.
- An inspection is a public process, and requires public notice to be posted in advance.

inspection of ballots in candidate election



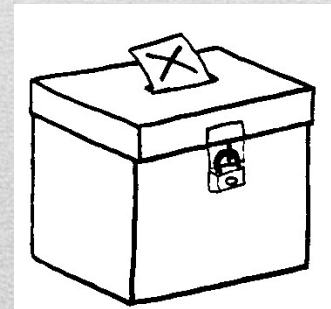
- The clerk or assistant clerk should record the names of those present and the capacity in which they are participating.
- The clerk should verify that those participating are eligible to do so, since members of the public can be present to observe, but cannot participate.
- The clerk should separate him/herself from the participants and the voting materials.
- The clerk should not allow any writing instruments at the inspection table.
- Any questioned ballots should be segregated into two piles, one pile for the winner, and one pile for the loser. The clerk may count the ballots in both piles, to determine if there are enough to change the outcome, which may sway a losing candidate to stop process if the amount is not sufficient to change the outcome.
- The clerk should photocopy all questioned ballots and mark them “copy”.
- After each inspection, the clerk must reseal the packages of ballots and note on them the fact of the inspection and the date.

inspection process



- A recount for an election to a municipal office must be administered by a municipal clerk or the clerk's designee, pursuant to 30A Section 2531B.
- The municipal clerk shall publicly explain the recount process and supervise the sorting and hand counting of the votes.
- The municipal clerk will supervise the recount and can use counters provided by the candidates, but may supply counters if an insufficient number is provided. Municipal officers and candidates can not serve as counters.

recount of ballots in candidate election

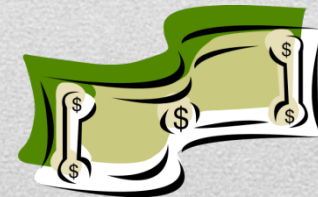


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- The amount of a deposit is determined by the clerk and must be 50% of the reasonable estimate of the cost to the municipality to perform the recount.
- All deposits must be made by the losing candidate to the municipal clerk, and are forfeited to the municipality if a recount fails to change the election result.
- If a recount changes the result of an election, the deposit must be returned to the candidate who paid the deposit.

forfeiture or refund of deposit





- A candidate who requests and receives a recount may withdraw from the recount by signing a request which specifies the reason for withdrawal, which must be signed by the candidate, notarized and delivered to the municipal clerk prior to or during the scheduled recount.
- In the event of a withdrawal, the final election day tally shall be considered the final result.

withdrawal from recount



- Within 24 hours after the results of the recount are determined, the municipal clerk shall prepare, sign and issue a final recount tabulation.
- Once the recount is finished, the clerk should reseal the ballots in a suitable package and retain them for two months, or until any litigation regarding the election outcome is resolved.



Rules

final recount tabulation





- If a recount results in a tie vote, the municipal officers are required to call a new town meeting for the purpose of holding a run-off election.
- The only way to avoid the run-off election is for all but one of the tied candidates to withdraw within seven days after the recount result is declared.

recount resulting in a tie



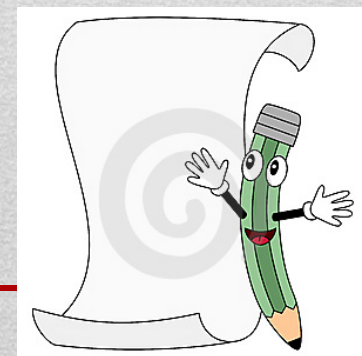
- There is no provision for inspecting ballots from a municipal referendum election, except to request a recount.
- The same time limits, rules and public notice requirements for conducting recounts in candidate elections also apply to recounts for referendum elections.
- For a secret ballot referendum, a recount must be initiated by a written application of voters in the municipality, to equal at least 10% or 100, whichever is less, of the registered voters in the municipality.

inspection and recount in municipal referendum election



- The method for conducting a referendum recount is the same as that for a candidate recount, except that the official representative requesting the recount must state a contact person, mailing address, residence address and phone number.
- An official representative of the side not requesting the recount can be determined by submittal of an affidavit signed by 10 registered voters of the municipality.
- Applicants seeking a recount must pay a deposit if the percentage difference shown by official tabulation is equal to or less than
 - 2 ½ % if the combined vote for the referendum is 1,000 or less;
 - 2 % if the combined vote is 1,001 to 5,000; or
 - 1 ½ % if the combined vote is 5,001 or more.
- The municipal clerk supervises the recount with counters provided by the opposing two official representatives, and announces the result. Some record should be made of the final recount tabulation.

referendum recount process



- What happens with tie votes in open town meeting and secret ballot voting
- How a recount can be requested, and when
- When a deposit is required, and how much is required
- How to administer an candidate inspection of ballots
- How to administer a recount for a candidate election and a referenda election

knowledge check





- You have reached the end of Module 11 of the Town Meeting and Elections class.
- For specific questions on any topic in this module, please contact the legal department at Maine Municipal Association, your town's attorney, or a clerk mentor.
- Please print this final page as proof of completion of this module.
- You may submit the final page to MMA along with the other eleven modules' completion pages to obtain a certificate to be used for certification points.

thank you

