

To All Candidates:

The *Municipal Elections Act, s. 42(3)* provides for the City Clerk to establish procedures and forms for the use of vote-counting equipment as authorized by by-law. The following is *Procedure F-1* and addresses the City of Windsor's vote-counting equipment to be used for the 2022 Municipal Election.

**THE CORPORATION OF THE CITY OF WINDSOR
ELECTION PROCEDURE**

Service Area:	LEGAL & LEGISLATIVE SERVICES	Procedure No.:	F-1
Department:	COUNCIL SERVICES	Approval Date:	January 1, 2022
Division:	Records and Elections	Approved By:	STEVE VLACHODIMOS, City Clerk
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Subject:	Voting and Vote Counting Equipment	Policy Ref.:	
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DUE TO THE ONGOING COVID-19 PANDEMIC, THIS PROCEDURE IS SUBJECT TO CHANGE AND REVIEW WITHOUT NOTICE IN ORDER TO MAINTAIN THE INTEGRITY AND TRANSPARENCY OF THE ELECTION AND THE HEALTH & SAFETY OF ALL PEOPLE.

1. **PURPOSE**

To provide for the use of any voting and vote counting equipment authorized by *By-law 12868, A By-law Respecting the Use of Vote Counting Equipment for Municipal Elections* for the 2022 municipal election for the purpose of counting votes for all offices printed on the ballot (including by-laws and questions, if any).

2. **SOURCE**

Municipal Elections Act, Section 12(1), 42(3) (4)

3. **PREAMBLE**

For the 2022 municipal election, the City of Windsor will be using the ImageCast Precinct Tabulator provided by Dominion Voting Systems, as the vote counting equipment. At least one unit will be setup at each established voting station throughout the city for advance vote days as well as voting day for the purpose of scanning the votes from the ballots. Some advance vote days and voting stations might have more than one unit set up. A Tabulator Officer at each voting station is responsible for the care of the unit during the voting process.

The City of Windsor uses a composite paper ballot system in which the voter must go to a voting station in order to vote. The voter uses the information on their voter notification card, previously mailed to them, to determine the location and time of the vote. Once at the voting station, the voter obtains their ballot from the election official, marks the ballot behind a privacy screen, and returns the marked ballot within the secrecy sleeve to the Tabulator Officer. The Tabulator Officer takes the ballot from the voter and feeds the ballot through the Tabulator unit to tabulate the votes from the ballot. The vote tabulator unit then deposits the ballot into an attached ballot box for safe keeping. At this point the voter is free to leave the voting station because their vote has been counted. On occasion the tabulator may not be able to read one or more offices on the ballot, in which case the ballot will be returned to the voter and marked as a spoiled ballot by the election official. When this occurs the voter will receive a new ballot.

In order to assist those voters with disabilities, an ImageCast Accessible Voting Ballot Marker Device will be on hand during the Advance Voting. This is a tool used for accessible voting purposes for voters who cannot negotiate a paper ballot. The devices will generate a marked paper ballot from a blank sheet of paper for subsequent tabulation. This will allow voters with disabilities and other special needs to mark their ballot privately and independently. The device will provide the voters with several options to mark a ballot including touch screen, hand-held controllers, paddle devices and sip/puff devices. The ImageCast Accessible Voting Ballot Marker Device also permits the voter to listen to the choices through headphones. Once the ballot is marked it is returned to the voter who will then deliver the ballot to the Tabulator Officer for processing through the tabulator and then into the ballot box.

4. **DEFINITIONS**

Act – means the *Municipal Elections Act, 1996, S.O.c32 as amended*.

Auxiliary Compartment – means the front compartment of the ballot box where voters' ballots are temporarily stored in the event of a vote tabulator fails to operate.

Deputy Returning Officer – means an election official stationed at the voting station for the purpose of dispensing ballots to voters.

Designated Election Official – means any person designated by the City Clerk to perform certain election functions including directly related to the operation of the vote tabulator equipment.

Memory Card/Jump Drive – means a card where the tabulated totals are stored in the tabulator unit provided at the voting station.

Secrecy Folder – means a folder or covering in which a marked ballot can be placed in so as to conceal the voter's selected votes for candidates.

Tabulator Officer – means an election official who has the care and operation of the voting equipment assigned to their voting station.

ImageCast Precinct Tabulator – means a tabulator unit that digitally scans the ballots, reads the votes on the ballot, and tabulates the results at each voting station.

Zero Totals – means the report generated by the tabulator at the opening of the voting stations before the voting begins shows a zero total next to each candidates' name for each office on the ballot.

5. **APPLICATION OF THE PROCEDURE**

The following procedures apply to the vote counting equipment used by the City Clerk at all voting stations during the voting process.

5.1 **By-law 12868 - By-law Respecting the Use of Vote Counting Equipment for Municipal Elections**

- (i) This procedure applies to an election conducted by the City of Windsor that has passed By-law 12868 under sec. 42 of the *Municipal Elections Act, 1996* authorizing the use of vote counting equipment for a municipal election.
- (ii) Any matter not provided for in this procedure shall be dealt with as far as practicable in accordance with the principles of the *Municipal Elections Act, 1996*.

5.2 **Election Officials**

The City Clerk shall, in writing, appoint election officials for the purposes of this procedure and may designate their titles and duties.

5.3 **Voting Subdivisions**

The City of Windsor has been divided into 10 wards with voting subdivisions within each ward. At least one Tabulator unit is provided for each voting station where the vote takes place and votes are tabulated continually on voting day. The results are then reported to the public soon after the voting station has been closed on voting day. Due to the number of potential voters attending at some voting stations, multiple Deputy Returning Officers have been assigned to handle the voters.

5.4 **Ballots**

- (i) There shall appear on the ballot to the right of each candidate's name a designated space for the marking of the ballot.
- (ii) Subsection (i) applies with necessary modifications to by-laws and questions.
- (iii) The instructions on the ballot direct the elector to vote by filling in the blank space adjacent to the candidate(s) of their choice or the elector's answer to any by-law or question.

5.5 **Programming of the ImageCast Precinct Tabulators**

- (i) The tabulators shall be programmed so that a printed record of the number of votes cast for each candidate or answers to any by-laws or question can be produced.
- (ii) Please note that the tabulators cannot read ballots that are damaged or defective or that have been marked in a way that the ballot cannot be processed by a tabulator. In some cases ballots that have been marked by the voter with over-votes or under-votes will be returned to the voter for further inspection. If the voter decides that the ballot correctly shows their intention, the Tabulator Officer will process the ballot through the Tabulator unit. If not, then the ballot may be considered a spoiled ballot.

5.6 **Testing of the ImageCast Precinct Tabulators**

Prior to voting day, the Clerk shall have the tabulators tested to ensure that they will accurately count the votes for all candidates or answers to by-laws or questions that are marked with the marker provided and with a valid mark in the designated area.

When testing the tabulators, adequate safeguards shall be taken to ensure that the system, or any part of it, that is used for processing and tabulating votes is isolated from all other applications or programs and that no remote devices are capable of gaining access to the system.

There are several “Testing” phases before the voting equipment is ready for use at the advance vote and/or for Voting Day.

- (i) Testing the Tabulators (Diagnostic Testing): This test will ensure that the clock, LCD display, system memory, printer serial port, auxiliary port, and ballot reader are all functioning properly.
- (ii) Testing Memory Cards: This will test each memory card to ensure none are defective.
- (iii) Testing Ballots: Once the ballots have been printed and received from the supplier, a test deck must be prepared and tested on each machine. A test deck must include every type of ballot and be comprised of samples of blank ballots, under-voted ballots, over-voted ballots, and properly completed ballots.
- (iv) Procedure for Testing Ballots: The test shall be conducted as follows:
 - a) assign a varying number of votes to a pre-audited group of ballots marked with the designated black ballot marking pen in a designated area;
 - b) manually count each valid vote and record the results;
 - c) tabulate the pre-audited ballots using the vote tabulator; and
 - d) compare the output of the tabulator with the pre-audited results.

- (v) Defective Machine: In the event that a vote tabulator must be replaced, or a memory card must be replaced, the replacement must be tested before it is put into operation. If a memory card is replaced, the card must be tested and the test deck of ballots shall be tested again.
- (vi) Test Documentation: A complete record of all testing phases shall be retained. In the event that the competency of the voting equipment is questioned, all printouts, and the test decks shall be retained for verification purposes by the City Clerk. The City Clerk shall, at the completion of the test, retain the programs, test materials and ballots in the manner provided for under the *Municipal Elections Act* for the keeping of election records. The City Clerk shall have access to the pre-audited group of ballots and other materials used in the programming of the tabulators.

5.7 **Testing of Spare Tabulators**

Prior to Voting Day, any “spare” tabulators shall be tested along with the regular assigned tabulators, as described in the section “Testing of Tabulators”.

5.8 **Candidates/Scrutineers**

- (i) Candidates may appoint scrutineers in writing to represent them at the voting station.
- (ii) Scrutineers shall show their written appointments to election officials, upon request.
- (iii) During the fifteen minutes before the opening of the voting station, the scrutineers who are entitled to be present in a voting station during voting hours are entitled to inspect the ballots and all other papers, forms and documents relating to the vote but not so as to delay the timely opening of the voting station.
- (iv) Only one scrutineer for each certified candidate may be present within the voting station at any time. If the candidate enters the voting station, the scrutineer shall leave.
- (vi) To protect the secrecy of the vote, candidates or scrutineers will not be able to examine ballots or to object to ballots as ballots are being fed into the tabulator by the Tabulator Officer.

5.9 **Procedure Before Voting Begins at the Voting Place**

- (i) Where a tabulator is to be used in a voting place, the Tabulator Officer shall, in the presence of all scrutineers and election officials present, print a copy of all totals using the tabulator’s memory card before the opening of the voting place confirming “0” totals and sign the report. This is called a “Zero Totals Report”.
- (ii) If the totals are zero for all candidates, by-laws and questions, the Tabulator Officer shall ensure that the zero printout remains affixed to the tabulator until

the results are printed by the tabulator after the close of the vote at 8:00 o'clock p.m. All election officials and scrutineers may sign the zero totals report, if they so desire.

- (iii) If the totals are not zero for all candidates, by-laws, and questions, the election official shall immediately notify the City Clerk and shall conduct the vote using the auxiliary back-up compartment of the ballot box until the vote tabulator is made operational or the City Clerk provides a back-up vote tabulator to the voting station.

5.10 **Procedures under Normal Circumstances**

Once the voter is verified and has completed voting, the Tabulator Officer shall, in the presence of the voter and without removing the used ballot from the secrecy folder, verify the DRO's initials and then insert the used ballot into the feed area of the tabulator until the tabulator draws the ballot from the secrecy folder in full view of the voter.

5.11 **Procedures in Extraordinary Circumstances**

Procedure in the event the tabulator cannot read the ballot:

- (i) If a ballot is returned by the tabulator and the voter who delivered the ballot is present, the Tabulator Officer shall re-insert the ballot into the feed area of the vote tabulator.
- (ii) If the tabulator again rejects the ballot, the Tabulator Officer shall ask the voter to re-examine the ballot to ensure they did not over-vote, make an invalid mark, or leave the ballot blank. The Tabulator Officer shall return the ballot to the voter and ask them if they wish to correct their ballot. The Tabulator Officer shall also ask the voter if they want a new ballot. If the voter wants a new ballot, then their original ballot is considered spoiled and they will have to return the ballot to the Deputy Returning Officer who originally gave them the ballot, tell them they spoiled their ballot, and request a new ballot. The Deputy Returning Officer will then place the spoiled ballot in the "Spoiled Ballot Envelope" and issue a new ballot to the voter.
- (iii) If the voter is satisfied with the ballot and wishes to place it into the ballot box as is, the Tabulator Officer may press the accept key to allow the tabulator to read the ballot.
- (iv) If the tabulator rejects a ballot and gives a message that it could not read the ballot, it means that either the scanner did not read the ballot correctly the first time, or it may be detecting a mark in an area that is rendering the ballot invalid. The Tabulator Officer will attempt to re-insert the ballot in the machine. If unsuccessful, the ballot will be considered spoiled and a new ballot will need to be issued to the voter by the Deputy Returning Officer. Once the voter has re-marked their ballot, they will bring it to the Tabulator Officer for scanning by the tabulator.

5.12 **Procedure in the Event a Tabulator Malfunctions During the Voting Process**

In the event that a tabulator malfunctions during the voting process and the memory card is still functional, it may be necessary for replacement of the tabulator. If this is necessary, a spare tabulator will be provided.

The following steps shall be performed in order to smoothly and quickly replace any faulty equipment and resume the regular voting activities at the voting station.

NOTE: At no time shall an elector be prevented from casting their ballot.

- (i) A Designated Election Official shall remove the memory card from the malfunctioning tabulator, and insert the memory card into the replacement tabulator;
- (ii) The Designated Election Official will then pack up the faulty equipment and set up the substitute tabulator. The zero totals tape from the original unit will be affixed to the new unit. In an effort to expedite the replacement, the election official who delivered the replacement tabulator may assist in packing up the faulty equipment;
- (iii) The Designated Election Official shall turn on the replacement tabulator, and verify the public count on the unit and if correct proceed to continue processing ballots. The existing ballot box continues to be used to accept ballots that are to be fed through the replacement tabulator for the remainder of the day;
- (iv) In the event that a memory card malfunctions, the Designated Election Official shall immediately contact the hotline number provided. Once a replacement memory card has been provided, the Tabulator Officer shall:
 - a) verify that the tabulator and replacement memory card are both operational, seal the original ballot box containing any ballots which were previously processed or inserted into the auxiliary compartment during the “equipment swap” and set it aside in a secure location until the close of the poll;
 - b) turn on the tabulator and proceed to print, verify and sign the zero totals report, as was done in section 5.9 - *Procedure Before Voting Begins at the Voting Place* of this procedure;
 - c) feed the ballots from the original ballot box through the tabulator after the last voter has voted at the close of the voting but before the machine is closed out.

5.13 **Procedure for Closing the Voting Place for Advance Voting**

5.13.1 The Tabulator Officer shall, after the close of all voting days, check the auxiliary compartment for ballots to ensure all ballots have been processed. All ballots removed from the auxiliary compartment of the ballot box shall

be processed through the tabulator. The Tabulator Officer shall immediately:

- (i) Look at the display on the tabulator and write down the number of ballots processed through the unit;
- (ii) Shut down and unplug the tabulator and place it into the carrying case provided. Seal the ballot box and the ballot box feed slot of the ballot box. Candidates or scrutineers may, if present place their seal on the ballot box;
- (iii) Personally deliver the tabulator, ballot box, and other election supplies to the City Clerk.
- (iv) At the opening of each advance vote day, all election supplies shall be brought to the advance voting location. A new ballot box and tabulator shall be used for each day of the advance vote. A zero totals report shall be displayed before the voting begins each day.

5.13.2 At the end of voting on each advance vote day, the tabulator and other election supplies shall be returned to the City Clerk without “Closing the Poll”. At the close of voting the Tabulator Officer shall:

- (i) Check the auxiliary compartment of the ballot box for ballots to ensure all ballots have been processed;
- (ii) Look at the display on the tabulator and write down the number of ballots processed through the unit. The number will later be recorded on the statement form;
- (iii) Secure the tabulator against receiving any more ballots;
- (iv) Sign the certificate portion of the printed record along with any scrutineers or candidates who are present and wish to sign;
- (v) Shut down the Tabulator;
- (vi) Seal the ballot box to ensure the box cannot be reopened without breaking the seal along with the ballot slot;
- (vii) The Tabulator Officer shall deliver the tabulator with memory card intact, all ballot boxes, and all other material to the location designated by the City Clerk.

5.13.3 The total of the votes at the advance vote shall not be printed, and the remainder of the procedures under section 5.14 shall not be followed until after 8:00 o'clock p.m. on voting day at the place designated by the City Clerk.

5.13.4 The total of the votes cast at the advance vote shall not be made available until 8:00 p.m. on voting day.

5.14 **Procedure for Closing the Voting Place on Voting Day**

- (i) The Tabulator Officer shall, after the close of the voting, check the auxiliary compartment of the ballot box for ballots to ensure all ballots have been processed;
- (ii) Look at the display on the vote tabulator and write down the number of ballots processed through the unit. The number will later be recorded on the statement form;
- (iii) Secure the vote tabulator against receiving any more ballots by invoking the “Close Poll” process for the tabulator;
- (v) Remove the zero totals report from the vote tabulator and place them into the statement envelope.
- (viii) The ballot box or transfer container will be sealed to ensure the box cannot be reopened without breaking the seal.
- (ix) The Tabulator Officer shall deliver all the election equipment and ballots to the City Clerk;

5.15 **General**

The City Clerk shall, at the completion of the count, retain the programs, memory cards, test materials and ballots in the same manner as is provided for in the *Municipal Elections Act* for the keeping of election records including:

- (i) The Clerk shall retain and may have access to the pre-audited group of ballots and other materials used in the programming/testing of tabulators;
- (ii) The Clerk shall not alter or make changes to the materials.

5.16 **Recount**

- (i) If a recount is required after Voting Day, the votes shall be counted in the same manner as the votes were counted on Voting Day and Advance Voting days and shall follow *J-1- Procedure for Conducting a Recount*;
- (ii) All tabulators to be used in the recount shall be tested before the recount in the manner described in section 5.6 in this procedure;
- (iii) The City Clerk shall attend the recount and bring the ballot boxes, tabulators, statement envelopes and all documents that, in the opinion of the City Clerk, are relevant to the recount;
- (iv) There shall be no more than one scrutineer for each certified candidate for each piece of vote-counting equipment in attendance at the recount;

- (v) At a recount, the persons referred to in subsection 61(5) of the *Municipal Elections Act* are not entitled to examine a ballot as the votes are being counted by the City Clerk.

6. **RECORDS, FORMS, AND ATTACHMENTS**

6.1 N/A