2018 MUNICIPAL ELECTION PROCEDURE

Procedure for voting and the use of electronic vote counting equipment for the 2018 Burlington municipal election

Ver. 1

DECEMBER 21, 2017
CITY OF BURLINGTON

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PREAMBLE AND AUTHORITY

This procedure defines the process for voting and the use of electronic vote counting equipment for the 2018 Municipal and School Board Election conducted by the Clerk of the City of Burlington as the Returning Officer pursuant to the *Municipal Elections Act, 1996* (*Act*) and its applicable regulations.

Where this procedure does not provide for any matter, the matter will be addressed in accordance with the principles of the *Act*. These principles are generally recognized as being:

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

The *Act* gives the authority to the City Clerk to:

(a) establish procedures and forms for the use of,
   (i) any voting and vote-counting equipment authorized by by-law, and
   (ii) any alternative voting method authorized by by-law
(b) provide a copy of the procedures and forms to each candidate when their nomination is filed. (MEA, s. 42(3))

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 (MEA, s. 12(1)).

The *Act* specifies that the Clerk's role includes "power to establish forms, including forms of oaths and statutory declarations, and power to require their use", "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" (MEA, s. 12(2) and (3)).

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 *Act*, further gives authority to the Clerk to provide for any matter or procedure that is not provided for in the *Act*.

Voting day is Monday, October 22, 2018. Elections are held for position of Mayor, Members of Council, Regional Chair, and School Board Trustees.

The Clerk's role related to Halton Regional Chair: The clerk of each lower-tier municipality is responsible for conducting the election in the lower-tier municipality and promptly reporting the vote recorded to the clerk of the upper-tier municipality who will prepare the final summary and announce the result of the vote. (MEA, s. 11.1(5)).

The definitions and procedures provided apply to the municipal election to be held on voting day including all advance voting opportunities provided.

SCOPE

This procedure covers all items to be addressed with regards to voting and the use of vote tabulators for the 2018 Municipal Election. It applies to the Returning Officer and any Election Official appointed by the Returning Officer, as well as all candidates, scrutineers, and eligible voters.

This procedure will be updated as required at the Clerk's discretion.

REFERENCES

Municipal Elections Act, 1996
City of Burlington By-law 57-2016

1. Definitions

In this procedure:

"Act" or **"MEA"** means the *Municipal Elections Act, 1996,* as amended.

"Ballot" means the electronic or paper format document that contains the races for the offices being contested in the election or by-election and/or any referendum question that electors are responding to based on the *Municipal Elections Act.*

"Ballot Box" means a container (cardboard box or otherwise) provided to Election Officials for the purpose of transporting ballots and/or election supplies to and from a voting location.

"Candidate" means a person who has filed a nomination paper (which will be or has been certified by the City Clerk) for an office for which a vote is being held during the municipal election.

"Captcha" is an acronym for "**C**ompletely **A**utomated **P**ublic **T**uring test to tell **C**omputers and **H**umans **A**part. This security feature is used to ensure that the information is completed by a human and not a computer.

"Clerk" means the individual appointed by City Council as City Clerk or their designate, who is the Returning Officer for the municipal election or by-election.

"Deputy Returning Officer" or **"DRO"** means a person who has been assigned leadership duties/responsibilities in the conduct of the municipal election or by-election. The DRO is responsible for an assigned poll.

"EID" or elector identification number means the numeric code that is randomly generated and sent to every elector by way of a Voter Information Notice (VIN). This number must be used as part of the process to register for internet voting.

"Elector" or voter means a person who meets the qualifications defined in the *Municipal Elections Act* and whose name is on the voters list or is added to the voters list within the qualification period.

"Election Assistant" or **"EA"** means a person who has been assigned specific duties/responsibilities in the conduct of the municipal election or by-election. The Election Assistant is responsible for the operation of the vote tabulator including

receiving completed ballots from electors and feeding ballots into the tabulator at a specific voting location.

"Election Day" means the day on which the final vote is to be taken in a municipal election. In a regular election the date is the fourth Monday in October (MEA, s. 4(4)). The current Election Day is October 22, 2018.

"Election Official" means a person who has been delegated or assigned duties/responsibilities by the Clerk in the conduct of the municipal election or by-election. An election official may include a DRO, Poll Clerk, Revision Clerk, Election Assistant, EMS Poll Clerk, Greeter, Runner, or other official.

"Greeter" means a person who has been assigned specific duties/responsibilities in the conduct of the municipal election or by-election. The Greeter is responsible for directing voters to the appropriate voting location and assisting visitors at the poll with access and egress, and questions they may have.

"Internet Voting" is a way that a voter can cast their vote using an electronic ballot on a computer via the internet from their home, office or anywhere across the globe.

"Internet Voting Registration" means the preliminary process by which an elector must register for internet voting. An EID number will be assigned to each elector and will be used as part of the process to register for internet voting.

"Liquid Crystal Display" (LCD) Located on the top of the tabulator, this panel displays all of the tabulator system's messages and prompts.

"Memory Card" means a removable cartridge that stores definition files, ballot information, results files and log reports. Memory cards are used in conjunction with electronic vote tabulators.

"Poll Clerk" means a person who has been assigned specific duties/ responsibilities in the conduct of the municipal election or by-election. The Poll Clerk is responsible for assessing, either manually or electronically, the eligibility of the elector by locating the elector's name in the voters list and viewing their identification. The Poll Clerk is responsible for delivering the appropriate ballot and secrecy sleeve to each elector and marking the elector as having voted on the voter's list.

"Revision Clerk" means a person who has been assigned specific duties/responsibilities in the conduct of the municipal election or by-election. The

Revision Clerk is responsible for providing electors who require revisions to their information with the required EL15 (Application to Amend the Voters List) form and ensuring the form is completed correctly and signed–off.

"Scrutineer" means a person appointed in writing by a candidate to represent them at a polling location.

"Secrecy Sleeve" means a tool or wrapping that conceals the ballot after the voter has marked their ballot.

"Special Voting Locations" means a voting location designated only for the residents of that particular nursing home, retirement home, or long term facility.

"Voters' List" means a document, authorized by the City Clerk that lists the names and voting parameters for eligible electors in Burlington as prepared through the efforts of the Municipal Property Assessment Corporation (MPAC), municipal staff, voters completing voters list amendment forms, and any company under agreement with the municipality for the purpose of maintaining the voters list.

"Voter Information Notice" (VIN) means the document sent to the voter indicating the date, time and location of their voting opportunities.

"Verified Voter" means that an individual has provided proof (government issued identification, i.e. driver's license, passport, birth certificate) or an affidavit that is satisfactory to the election official of the person's identity and eligibility to vote in Burlington's municipal election.

"Vote Tabulator" means an electronic apparatus that optically scans individual ballots to read the intended votes and summarize the results. Vote counting equipment will be selected so that a printed record of the number of votes cast for each candidate and with respect to each referendum question can be produced.

"Voting Place" means a location designated by the City Clerk where electors may cast their vote in the municipal election or by-election.

"Zero Totals Report" means the report that prints automatically when a tabulator is turned on at the start of the election or by-election to show that no votes have been counted.

2. Forms

Forms that are provided by the MEA and/or the Ministry of Municipal Affairs and Housing are labeled as provided for in the legislation. Forms that are Burlington-specific and used by the municipality are labeled EL followed by a number. The forms in place at this time for the 2018 municipal election related to voting and vote counting include:

Ballot   format for use in electronic vote tabulator and format for use by internet

Form 3	Appointment of voting proxy
Form 9	Declaration of identity
EL1	Voting instructions
EL 2	List of objections to persons voting
EL 3	Receipt of ballot boxes received at city hall
EL 4	Supplies
EL 6	Advance voting record – at the close of voting
EL 8	Certificate of election results
EL 10	Appointment and oath of DRO
EL 11	Appointment and oath of an election official: specific position is named on each oath administered
EL 12	Appointment of scrutineer by candidate
EL 14	Candidates declaration and use of voters lists
EL 15	Application to amend the voters list
EL 16	Application for removal of another's name from the voters list
EL 17	Tabulator log
EL 21	MMV log
EL 22	Certificate on voters list
EL 25	Certificate and receipt for ballots
EL 26	Oath of qualification
EL 27	Oral oaths (voting with assistance, friend of elector, interpreter)
EL 34	Statutory provisions regulating voting procedures
EL 35	Notice of offence and corrupt practice
EL 45	Ballot count after close of poll – for envelope A

3. General

Polling Subdivisions

The City of Burlington has six wards numbered 1 through 6. Polling subdivisions are represented by three digits. The first digit represents the ward number followed by the polling subdivision (i.e. 102 is the second polling subdivision within ward 1).

A "vote anywhere in your ward" model will be used on election day.

Voting Dates/Times and Locations

Voting locations and times on election day are established in accordance with the *Act*. Voting hours on election day are continuous from 10:00 a.m. to 8:00 p.m. on Monday, October 22, 2018, except at special voting locations.

Advance voting dates, times and locations are established in accordance with the Act and determined by the Clerk. Advance voting will be held no earlier than 30 days prior to voting day. With the exception of opening and closing procedures, voting procedures for an advance voting location will remain the same as a regular voting location on voting day. Internet voting dates and times will be established at the same time as advance voting.

4. Ballots

When an election is to be held, the Clerk will provide ballots as outlined in the *Municipal Elections Act, 1996, s.* 41(1).

The City of Burlington by-law 111-1988 authorizes the use of composite ballots for municipal elections and allows the ballot form to be amended as required for any election to provide the date of the election, the required spaces for candidates seeking office and for any referendum questions being considered.

Letter size ballots will be used (8.5"x11"), and legal size ballots (8.5"x14") will be used when needed. Burlington avoids the use of two sided ballots.

The following rules apply to ballots, as outlined in the MEA (s. 41):

1. Only the names of certified candidates will appear on the ballot.
2. The candidates' names will appear on the ballot in alphabetical order based on their surnames. In case of identical surnames, alphabetical order will be based on their forenames.
3. 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 their legal name.
4. No reference to a candidate's occupation, degree, title, honour or decoration will appear on the ballot.
5. 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, every candidate's qualifying address will appear under their name. For example, if two names within one race are identical or confusing, all of the names in that race will be followed by their address. If two names in two different races are identical or could be confusing, all of the names in the two races will be followed by their address.
6. A space for marking the ballot will be positioned to the right of each candidate's name or, in the case of a referendum question, to the right of each potential answer.
7. All ballots for the same office or relating to the same question will be as nearly alike as possible.

Excluding Ballots

Regulation 3(1) and (2) of Ontario Regulation 101/97, made under the *Act*, provides that the DRO will reject from the count all votes in a ballot if the ballot contains writing or marks that may identify the elector, or is torn, defaced or otherwise dealt with by the

elector in a way that may identify them. Based on Marlow v. Clerk, 2003 CanLII (ON S.C.), five legal principles must be considered if a ballot is to be rejected on the basis that it contains writing or marks that may identify the elector or is torn, defaced or otherwise dealt with by the elector in a way that may identify them. In order to reject the applicable ballot, it must be shown and proven on a balance of probabilities that:

- The voter made the writing or mark or tear
- The writing, mark or tear may identify the voter
- Within the writing, mark or tear, there must be a means of identification of the voter
- It is more probable that the purpose for the writing, mark or tear is to identify the voter
- There is no other rational purpose for the writing, mark or tear.

Before giving the ballot to an elector, if a ballot is found to be damaged
(i.e. torn, damaged based on packaging such as elastic binding a group of ballots, bent or otherwise unusable), the Poll Clerk will print the date and time on the back of that ballot and what the decision of the Poll Clerk was about the ballot and initial the comment.

If, after giving the ballot to an elector and attempting to process the ballot through the tabulator, a ballot is rejected by the tabulator, the Election Assistant will note the date and time on the back of the ballot and what the decision of the Election Assistant was about the ballot. Ballots should be counted rather than rejected unless there are compelling reasons for rejection. A small tear does not satisfy the legal principles required to exclude the ballot if there is no evidence as to who tore the ballot, when it was torn, or how the tear could identify the voter.

Voters will be instructed to mark their ballot with the black ink ballot marking pen provided at the voting booth.

See *Municipal Elections Act*, 1996 for additional information about:

- Variations for electors with visual impairments
- Determination by Clerk.

5. Voters' List

Preparing the Voters List

The preliminary list of electors (PLE) is compiled before each election by the Municipal Property Assessment Corporation (MPAC) which maintains the list through general and targeted enumeration efforts. The list provided by MPAC includes only those with confirmed Canadian citizenship. The City of Burlington updates the PLE based on information available to the city through the previous election and current property information.

The City of Burlington's PLE will be available at City Hall in the Clerks Department and at Burlington library branches from Monday, September 3, 2018 until Monday, October 22, 2018 so that electors can be sure they are on the PLE. The *Act* does not allow the voters list to be posted in a public place, so staff at these locations will keep the list confidential while assisting the voter.

Revisions to the Voters List

Beginning September 3, 2018 and ending at the close of voting on voting day, eligible voters will be able to revise their information on the PLE by filing an application in person, by mail or other format and manner specified by the Clerk. The forms will be available at City Hall, 426 Brant Street, Clerks Department, first floor, between 8:30 a.m. and 4:30 p.m. Monday through Friday.

A person may make an application (Form EL15) to the clerk for their:
- Name to be added to or removed from the voter's list
- Name/information to be amended on the voter's list

The application to revise information on the PLE will be made in writing in one of the following ways:
- In person (at address above), by the applicant or their agent
- By mail or email, by the applicant
- Other format and manner that the Clerk specifies

A person may make an application (Form EL16) to the clerk for:
- Removal of another person's name from the voter's list (deceased, moved, other)

The application to revise another's information on the PLE will be made in writing in one of the following ways:
- In person (at address above), by the applicant or their agent

- By mail or email, by the applicant
- Other format and manner that the Clerk specifies

The clerk may, on his or her own initiative, remove a person's name from the voters' list until the close of voting on voting day if the clerk is satisfied that the person has died. (MEA, s. 25)

At the voting locations, on advance voting days and election day, the same applications for amendments to the voters list will be available.

6. Election Technology

Authority for use of Vote Counting Equipment

Section 42. (1) of the Municipal Elections Act, 1996 permits the council of a local municipality to pass a by-law authorizing the use of vote-counting equipment and alternative voting methods. The City of Burlington has been using electronic vote tabulation technology since 1995. For the 2018 municipal election, the provider of electronic vote tabulators (see Appendix A) is Dominion Voting Systems Corporation.

The Clerk will determine which voting locations will be assigned vote tabulators. In voting locations where a vote tabulator has not been provided, the marked ballots from that voting place will be delivered by the DRO directly to city hall where the ballots will be tabulated by a vote tabulator.

Voting Equipment Testing

Examination of Voting Equipment – Phase 1
Voting equipment and peripherals are inspected for physical damage when removed from the delivery vehicle to ensure:
- no damage has occurred during shipping,
- a valid claim for damage(s) can be made,
- we comply with the lease agreement and acceptance testing procedures.

Internal and External Components Test – Phase 2
The internal and external components tests (also referred to as Phase 2) is completed to ensure:
- all hardware and software is in proper working order
- compliance with the lease agreement and acceptance testing procedures
- equipment is programmed as per City of Burlington's specifications
- repairs or equipment replacement is completed prior to voting

Logic and Accuracy Test – Phase 3
A minimum of 14 business days before polling and after nomination day, a logic and accuracy test (L&A) is conducted to ensure "system readiness" The test consists of running a set of marked test ballots through each tabulator and comparing the vote count with predetermined results to verify the accuracy of the hardware and software. Broken down, the test is conducted to ensure the following:

- voting equipment is functioning properly
- the election is properly defined

- all programming and parameters as specified by Burlington are correct
- tabulators can read the ballots and accurately tabulate and report results
- information for each candidate, contest and poll is correct
- tapes accurately reflect location names and numbers, races, candidates, results
- results are the same as those in the manual tally prepared before the test
- election results display is functioning and reporting correctly

If the Clerk (or designate) detects any error in the test, the cause of the error will be ascertained and corrected and the test repeated. In order to ensure that the tabulators each are ready, an errorless count must be achieved.

Election Ready Check - Phase 4
No later than 2 days before the advance poll, the Clerk ensures that all voting technology is election ready.

Backup Equipment
The Clerk will have adequate equipment and supplies on hand and/or coordinated with the contracted service provider in order to facilitate technology backup and recovery procedures.

If, at any time during the poll or at the close of a poll, the Clerk is of the opinion that it is not possible to count the votes with the vote tabulator(s) due to mechanical, electrical or other failure, the Clerk may direct that a back-up tabulator and/or back-up memory card be delivered to a voting location. This may require that all previously-tabulated ballots using the defective equipment will have to be re-processed using the replacement equipment. The Clerk will make this determination and notify all candidates potentially impacted.

Where in the Clerk's opinion it is not practical to provide a back-up vote tabulator and/or memory card to a voting location, the Clerk will direct that the ballots be counted manually, at City Hall in a location of the Clerk's choosing. The Clerk may assign additional election staff to assist with the manual count.

Ensuring Voter Intentions on Ballots

Voting technology will be programmed with the settings described in the section "Ballot Accept and Reject Settings".

Error or Mechanical Failure

Election officials will take the following steps if totals are not zero for all candidates and questions, or if the totals do not print when the tabulator is plugged in, or another mechanical failure occurs during voting.

Step	Action
1	Discontinue using the tabulator and continue accepting ballots by using the backup ballot box until otherwise instructed.
2	Immediately contact the Clerk or designate & receive further instructions.
3	Complete Part A of the tabulator Error Log and place it on top of the tabulator. The Clerk will provide instructions to the DRO and to the Election Assistant operating the tabulator when the ballots in the back-up ballot box are able to be processed through the tabulator. In most cases, the Clerk will notify the affected candidates so that they or their representative can be present at the time the ballots will be processed by the tabulator.

Internet Voting

Internet voting complements voting in person.

When a registered internet voter casts their ballot online, their name is marked on the voters list as having voted.

Internet ballots can be cast from a voter's home, from their workplace or from a public computer, such as at a public library. The technology will allow internet ballots to be cast from anywhere in the world. A voter is allowed to vote once under the *Act*. Internet voting can be considered "unsupervised voting", similar to vote by mail or vote by telephone technology. Internet advance votes will be decrypted and reported with the results of the vote tabulating memory cards that are read as they arrive at City Hall after the close of voting on election day.

7. Opening and Closing Voting Locations

Election Assistant's Procedures

Opening Procedures

Before the polls open and in the presence of election staff and any scrutineers present the Election Assistant will:

- ensure all electrical and internet connections are in place and functioning
- confirm the technology provided is labeled for their poll and then remove it from the carrying case
- check that the tabulator arrived with both the administrator and poll worker ports securely sealed.
- set-up the ballot box and verify that there are no ballots inside.
- ask the DRO to announce to all present "we are sealing the ballot box" and allow anyone who is present or wants to, look into the ballot box to see that it is empty.
- put a ballot box seal on the box and allow any scrutineers present to sign the seal.
- Position the tabulator and ballot box so that ballots processed through the tabulator will drop into the primary compartment of the ballot box, and
- voters can approach and leave easily
- no power cords are in the way of voters or voting
- plug in the tabulator and then use their security key to start up the tabulator and authenticate the election files
- enter the eight digit password that is required in order to proceed to the open poll function
- review and confirm election information including time and date. If either is off by a concerning amount phone the help line.
- at 5 minutes before the polls open press "Open Poll"
- ensure the tabulator display reads "Results are Zero" and prints out 2 copies of the report (tape).
- Verify results are zero and make a tear between the two tapes (just below the signatures) and tape one copy (without signatures) to the wall.
- Sign the second tape and obtain the signature of the DRO and any scrutineers present.
- Roll the tape up so that it will sit in the exterior slot of the thermal printer. Ensure that the tape remains affixed to the tabulator.

During Voting Procedures
The election officials appointed by the Clerk to issue the ballots will ensure that the appropriate ballot is delivered to each voter and that the voters' eligibility is confirmed.

The election official must:
- verify the appropriate identification from the eligible voter, as described in the *Act*
- mark on the voters' list that the voter has voted
- initial the appropriate ballot type in the space provided at the top-right corner of the composite ballot
- deliver the initialed ballot inside a secrecy folder to the eligible voter, instructing the voter as to how to properly mark the ballot to enable it to be processed by the vote tabulator.

Upon receiving the ballot, the voter will:
- proceed to the voting booth
- using the ballot marking pen provided in the voting booth, vote by marking an X in the box to the right of the candidate(s) of his/her preference within each office or for the answer to any by-law or question;

After marking the ballot in the voting booth, the voter shall,
- insert the ballot back into the secrecy folder
- leave the voting booth without delay
- deliver the secrecy folder containing the ballot to the election official stationed at the vote tabulator.

During voting the Election Assistant must:
- supervise the election equipment and ballot box at all times
- receive from the elector the secrecy sleeve containing the marked ballot
- ask the elector to remain present until the ballot is processed by the tabulator
- securely hold the secrecy sleeve with the ballot face down and feed the ballot until the tabulator draws the ballot from the secrecy sleeve
- if any election equipment fails to operate, notify the DRO immediately and proceed to use the back-up compartment of the ballot box until further notified
- log the date, time, and explanation of error and poll number on the EL 17 form provided ("Tabulator Error Log") in the tabulator carrying case.

8. Procedures for Technology During Voting

Technology is programmed to accept the following ballots:
- a ballot in which all contests (races) are voted, and
- a ballot in which at least one contest (race) is voted but not all contests (races) are voted.

The tabulator is programmed to return the following ballots:
- Initials missing
- Over voted
- Blank ballot
- Ambiguous mark detected (a voter's mark is not large and/or dark enough to show the voter's intent)
- Defective ballot (may include smudged ink, a tear or large crease)
- Poll Clerk's initials are missing

When the tabulator returns a ballot the following will occur:
- an audible beep will sound, and
- a message related to the ballot condition will be displayed on the operator panel
- **Note:** The tabulator can only display one message per ballot, even if more than one error is detected.

When alerted to a ballot condition the Election Assistant will:
- never look at how a ballot is marked
- explain to the voter the message and their options in relation to that message
- follow the procedure described for that message
- if returning a ballot to a voter make sure it is returned in the secrecy folder

Ballot Accept and Reject Settings

Initials Missing: The Poll Clerk's initials do not appear within the verification box on the ballot.
Internet: Not applicable
Tabulator: actions as follows

Step	Action by Election Official at the Poll
1	**Explain to the voter that the Poll Clerk's verification initials are missing on the ballot.**

2	**Ask the voter to remain present while you have the DRO determine the ballot's eligibility for initials.**
3	**Speak with the DRO and if found to be eligible have the ballot initialed.**

If ballot is found to be...	Then the ...
eligible	• **DRO will escort the voter to the Poll Clerk so that the ballot can be initialed, and** • **you can process the ballot**
not eligible	• **ask the DRO to speak with the elector and handle the ballot.**

Over Voted: More votes are cast for one or more offices than are permitted
Internet: Voter will receive a warning and have the opportunity to correct the ballot before it is cast.
Tabulator: actions as follows

Step	Action by Election Official at the Poll

1	**Explain to the voter that the ballot reads as over voted and that they may do one of the following:**
	    a) **return the ballot so that a new one can be issued, or**
	    b) **cast the ballot as over voted, meaning only those races not over voted will be counted.**

2	**If elector would like a new ballot, then do the following:**
	    a) **write on the back of the ballot "OVER VOTED – New Ballot Issued"**
	    b) **initial the ballot, place it into the secrecy folder and summon the DRO.**
	
	The DRO will initial the ballot and escort the voter to the Poll Clerk's station.

Otherwise, including if the elector intended to over vote or is no longer present ...
- use the 'CAST' button on the tabulator, which means only those races not over voted will be counted.

Blank Ballot: No marks were made in any of the spaces designated for marking.
Internet: Voter will receive a warning and have the opportunity to correct or cast it as blank
Tabulator: actions as follows

Step	Action by Election Official at the Poll
1	**Explain to the voter the ballot reads as blank voted and that they may do one of the following:** a) **return to the voting booth to review and mark their ballot** b) **if it was their intent to not mark the ballot, they may cast it as a blank**

Otherwise, including if the elector is no longer present ...
- use the 'CAST' button on the tabulator, which means the ballot will be cast as blank.

Defective Ballot: Message: Ballot is folded, damaged, or was fed incorrectly
Internet: Not applicable
Tabulator: actions as follows

Step	Action by Election Official at the Poll
1	**Explain to the voter how the ballot reads and that you are going to try to feed it again. Proceed to try again.**
2	**If the ballot is still not accepted explain to the voter that the ballot needs to be returned and a new one issued to them.** a) **write on the back of the ballot "DEFECTIVE – New Ballot Issued"** b) **initial the ballot, place it into the secrecy folder and summon the DRO** **The DRO will handle the ballot and escort the voter to the Poll Clerk's station.**

Otherwise, including if the elector refuses to receive a new ballot or is no longer present ...
- write the word "DEFECTIVE" on the back of the ballot
- if you know how the ballot came to be defective write this also on the back i.e. torn by elector or torn by tabulator
- ask the DRO to initial the ballot and place it in envelope "A".

Misread: A ballot that is torn or has marks that obstruct important identifiers will produce a misread warning. This warning may also occur if a ballot is incorrectly fed into the ballot slot.
Internet: Not applicable

Tabulator: actions as follows

Step	Action by Election Official at the Poll
1	**Election official will ask the elector to make sure their ballot is not torn.** a) **If not torn, then election official will make a second attempt to cast the ballot** b) **If torn or not accepted on second cast attempt, elector must return the ballot to the Poll Clerk and receive a new ballot.**

Otherwise, including if the elector refuses to receive a new ballot or is no longer present ...

- write the word "MISREAD-Not Reissued" on the back of the ballot
- if you know why the ballot can not be read write this also on the back i.e. torn by elector or torn by tabulator
- ask the DRO to initial the ballot and place it in envelope "A".

Ambiguous Mark: A voter's mark is not large and/or dark enough to show the voter's intent,
Internet: Not applicable
Tabulator: actions as follows

Step	Action by Election Official at the Poll
1	**Explain to the voter the ballot reads as "Ambiguous Mark" and that you are going to try and feed it again. Proceed to try again.**
2	**If the ballot is still not accepted, ask the voter to return to the voting booth to review and more clearly mark their ballot.**
3	**If the ballot is still not accepted, tell them there may be some other mark causing the error and that the ballot needs to be returned and a new one issued to them.** a) **write on the back of the ballot "AMBIGUOUS MARK – New Ballot Issued"** b) **initial the ballot, place it into the secrecy folder and summon the DRO.** **The DRO will handle the ballot and escort the voter to the Poll Clerk's station.**

Otherwise, including if the elector refuses to correct their ballot, receive a new ballot or is no longer present ...

- write the words "AMBIGUOUS MARKS" – Not Reissued" on the back of the ballot
- ask the DRO to initial the ballot and place it in envelope "A"

Closing an Advance Vote

Where a vote tabulator has been used to tabulate the votes cast in a polling place, the Election Officials will, after the close of the poll:

- permit those eligible electors inside the poll after the close of the poll to cast their vote,
- ensure that any ballots, which were placed in the back-up compartment/ballot box (due to equipment problems), are tabulated.

Then the Election Assistant will:

a) After all electors inside the poll have voted, record on Form EL45 the number of ballots processed as indicated on the vote tabulator display. Ask the DRO to verify this amount and also record it on Envelope A.

b) Sign the form and ask any scrutineers and other election officials present to also sign the form.

c) Secure the form to the tabulator with the seal provided to ensure no further ballots are processed through the tabulator.

d) Power down the tabulator and place it in the carrying case provided.

e) Place a seal over the main ballot box entry slot so that no additional ballots can be inserted and no ballots can be removed or accidentally released during transportation. Allow any scrutineers present to also place their seal on the box.

Then the Deputy Returning Officer will:

a) Complete the Summary of Receipt and Distribution of Ballot statement on the front of Envelope A.

- \# of ballots received from the Clerk
- \# of cancelled ballots
- \# of declined ballots
- \# of defective ballots

- # of unused ballots
- # of counted/tabulated ballots (this number appears on the tabulator display counter).

b) Where practical to do so, the DRO will place in Envelope A:

- All cancelled ballots
- All declined ballots
- All defective ballots
- All unused ballots, then seal Envelope A.

c) The DRO and/or Election Assistant will deliver the ballot box, vote tabulator, Envelope A, signs and other supplies to the Clerk at City Hall. The Clerk will provide safe custody for the tabulator and ballot box.

d) If a second advance vote date is scheduled an Election Official will before the 2nd advance vote remove the memory cards so that the tabulator can be reallocated to the 2nd advance vote. Memory cards will remain in secure custody.

e) On voting day at 8:00 pm, in City Hall polling on advance vote tabulators will be closed and the election results tape printed.

f) The Clerks Technology Analyst will upload election results from advance vote tabulators.

Closing on Voting Day

Where a vote tabulator has been used to tabulate the votes cast in a polling place, the Election Officials will, after the close of the poll:

- permit those eligible electors inside the poll after the close of the poll to cast their vote,
- ensure that any ballots, which were placed in the back-up compartment/ballot box (due to equipment problems), are tabulated.

Then the Election Assistant will:

a) Use the security key to close the polling on the tabulator and produce the election results tape. Election tape will show the total number of ballots processed, the offices/races, names of candidates and the number of votes recorded for each candidate.

b) Ask the DRO to verify the number of ballots processed as indicated on the vote tabulator display and record the number on Envelope A.

c) Allow scrutineers, if they choose, to record the vote totals from the tape and when finished both DRO and EA will sign it. Any scrutineers present will also be allowed to sign the tape.

d) Detach the election results tape from the vote tabulator and give it to the DRO for placement in Envelope A.

e) Power down the tabulator and place it in the carrying case provided.

Then the Deputy Returning Officer will:

a) Complete the Summary of Receipt and Distribution of Ballot statement on the front of Envelope A.

- # of ballots received from the Clerk
- # of cancelled ballots
- # of declined ballots
- # of defective ballots
- # of unused ballots
- # of counted / tabulated ballots (this number appears on the tabulator display counter).

b) Where practical to do so, the DRO will place in Envelope A:

- All cancelled ballots
- All declined ballots
- All defective ballots
- All unused ballots, then seal Envelope A.

The DRO and/or Election Assistant will deliver the ballot box, vote tabulator, Envelope A, signs and other supplies to the Clerk at City Hall. As tabulators arrive at the Clerks Office the Clerks Technology Analyst will remove the memory cards and upload the results.

Special Voting Locations

Deputy Returning Officers working special polls will be instructed to bring their ballots boxes to city hall.

a) At 8:00 p.m. a designated DRO will break any seals on the ballot box and remove all ballots ensuring the box is completely empty.

b) The DRO will exercise care to assemble the ballots face down and feed the ballots through a tabulator designated for special ballots ensuring scrutineers/candidates cannot view the way the ballots are marked.

If a ballot...	Then ...
is returned	• press "cast" to try and cast the ballot again
continues to be returned	• write the word "special" and any error message displayed on the tabulator on the back of the ballot, and • give the rejected ballot to the supervising assistant to insert in Envelope "A"

c) Confirm with the Election Officer that all ballot boxes have been returned and the ballots processed then proceed to close polling on the tabulator.

The ballots from the specials will be tabulated so that their results are included in the cumulative total for the poll and not recorded or displayed as separate special poll results.

Certification of Election Results

The Clerk will certify the results of the election or by-election by reviewing relevant records provided through DROs at each voting location, information provided through internet voting technology, and information provided by vote tabulation machines.

9. Records and Recounts

Records Retention

The Clerk will retain the programs, memory cards, test decks of ballots securely and as provided for in the Act and consistent with the City of Burlington Records Retention By-law 5-2015 and the Clerk's guidelines related to election records.

The Clerk will retain the test deck of ballots and other materials used in testing the vote tabulators, consistent with the provisions in the *Act* for the keeping of the ballots.

Recounts

The Clerk will conduct a recount as soon as possible when, after reviewing all ballots in envelope As and election results from advance, special and regular polls:

a) the number of votes for two or more candidates in the same race is the same so that neither can be declared elected to office

b) the number of votes for two or more answers to a referendum question are equal

c) a race is identified as having been decided by less than one half of one per cent of the vote, as per Burton v. The Town of Oakville, Best, Mulvale & Serra, 2004 CanLII (ON S.C.) and the National Commission on Federal Election Reform, 2002.

Subject to the direction of City Council or an order of a judge under Section 58 of the *Act*, if a recount of votes is held, the votes will be recounted only for the Race(s) or Question(s) that are subject to the recount. The votes are to be counted in the same manner as the votes were counted originally, unless otherwise directed by order of the judge.

a) The Clerk will determine the recount staffing requirements and direct staff during the recount process.

b) The Clerk will send notice to the candidates affected by the recount, informing them of the date, time and location along with any other details regarding the number of scrutineers they may bring to the recount.

c) Vote tabulators will be tested before the recount.

d) The Clerk will ensure that the ballot boxes, vote tabulators, envelopes and all documents that, in the opinion of the Clerk, are relevant to the recount are available for the recount.

When the recount is complete, the Clerk will,
a) announce the result of the recount; and
b) if there are disputed ballots,
- announce the number of them,

- announce the result that would be obtained if the disputed ballots were excluded, and

- write the number of the voting place on the back of and initial each disputed ballot, place them in a separate envelope clearly marked so as to indicate its contents, and seal the envelope.

Tied Vote

If the recount indicates that two or more candidates who both or all cannot be declared elected to an office have received the same number of votes, the Clerk will choose the successful candidate or candidates by lot.
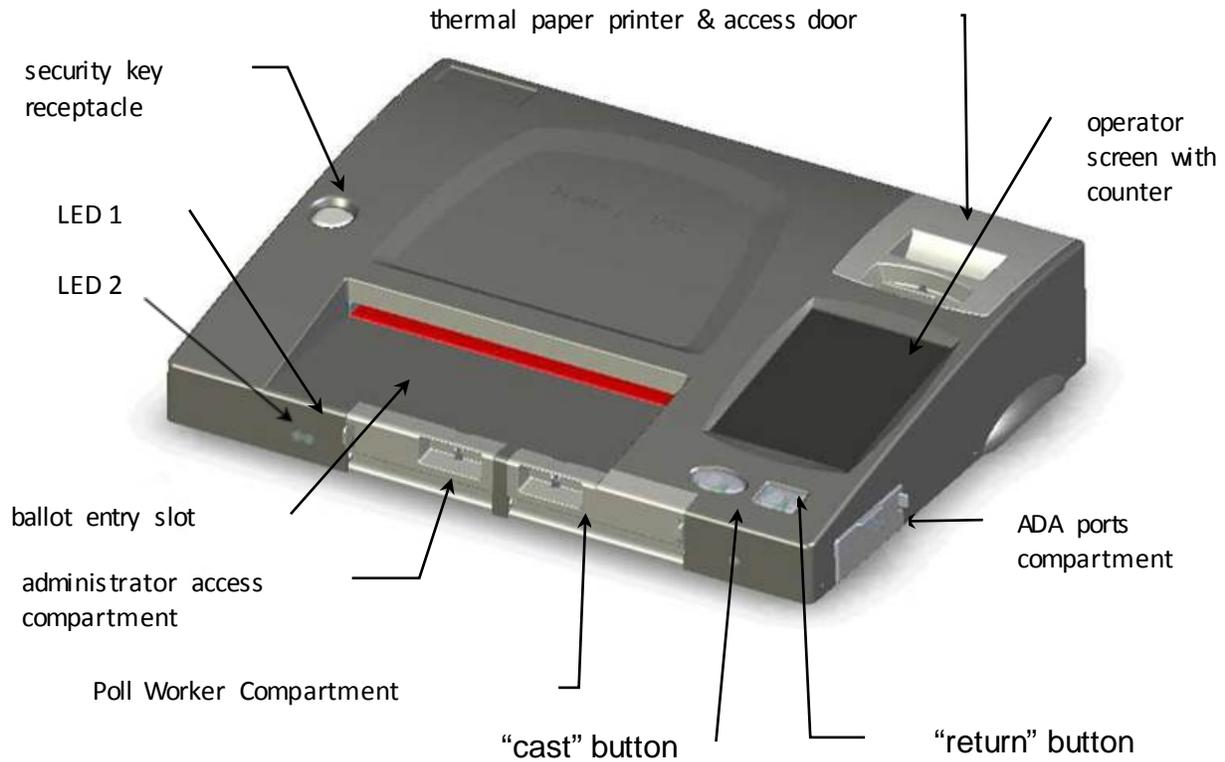
The MEA notes that a certified candidate can dispute the Clerk's recount within 15 days and apply to the Superior Court of Justice for a mandatory judicial recount.

If no application has been made for a judicial recount under section 63, the Clerk will, on the 16th 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.
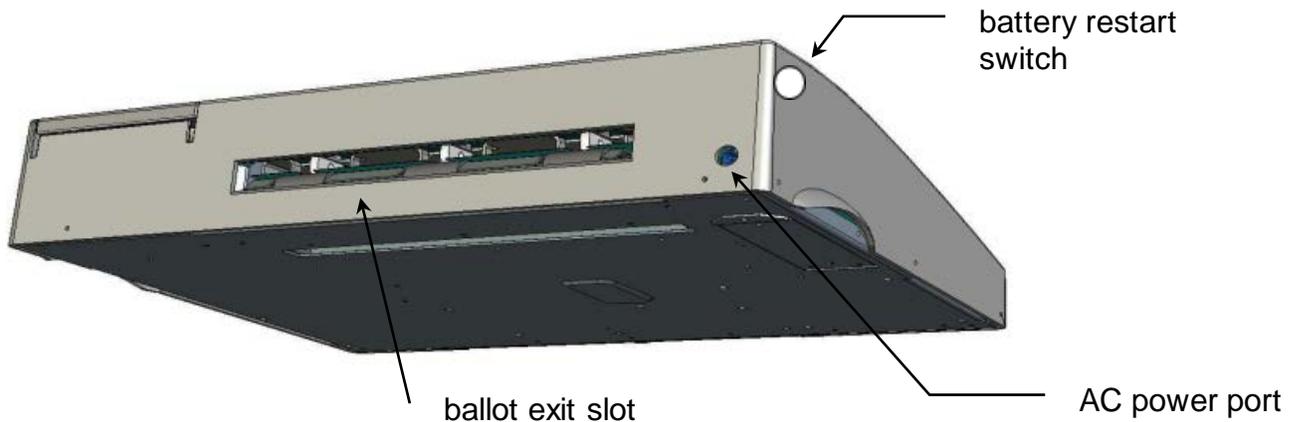
Appendix A – Tabulator Image

The front and rear view of the tabulator with no additional assistive voting devices attached.

Front View

thermal paper printer & access door

security key receptacle

operator screen with counter

LED 1

LED 2

ballot entry slot

administrator access compartment

Poll Worker Compartment

ADA ports compartment

"cast" button

"return" button

Rear View

battery restart switch

ballot exit slot

AC power port

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