

CITY OF COURTENAY

BYLAW No. 3073

A Bylaw to establish procedures for the conduct of local government elections and assent voting.

The Council of the City of Courtenay, in open meeting assembled, enacts as follows:

Citation

1. This Bylaw may be cited as "Election Bylaw No. 3073".

Definitions

2. In this Bylaw:

ACCEPTABLE MARK	means a mark that: a) A vote-counting unit is able to read and count; and b) Is made by an elector in the space provided on a ballot, opposite the name of a candidate or opposite "yes" or "no" on any other voting question;
APPLICANT	means an elector who wants to vote by mail and makes a request for a mail ballot;
AUTHORIZED PERSON	means a person that the applicant has authorized, on the applicant's behalf, to: a) Pick up a mail ballot package, or b) Drop off a completed mail ballot package;
AUTOMATED VOTE-COUNTING SYSTEM	means a system that counts and records votes and processes and stores election and other voting results, and is comprised of the following: a) A number of ballot-scanning vote-counting units, each of which deposits ballots into a ballot box; b) A number of portable ballot boxes into which voted ballots are deposited, if a vote-counting unit is not functioning or not being used, for counting at a later time;
BALLOT	means a single ballot card designed for use in an automated vote-counting system and including all the information required by the <i>Local Government Act</i> ;

BALLOT RETURN OVERRIDE PROCEDURE	means the use, by an election official, of a device on a vote-counting unit, which causes the unit to accept a returned ballot;
CHIEF ELECTION OFFICER	means the person appointed as Chief Election Officer by City Council, and includes their deputy;
CITY	means the Corporation of the City of Courtenay;
CORPORATE OFFICER	means the person appointed as Corporate Officer by City Council, and includes their deputy;
ELECTION HEADQUARTERS	means the location which the Chief Election Officer has designated as election headquarters, or in the absence of such a designation, Courtenay City Hall;
GENERAL VOTING DAY	means: <ul style="list-style-type: none"> a) For a general local election, set under section 52 of the <i>Local Government Act</i>, the third Saturday of October in the year of the election; b) For other elections, the date set under section 54, 55 or 152 of the <i>Local Government Act</i>; and c) For assent voting, the date set under section 174 of the <i>Local Government Act</i>;
MEMORY CARD	means a computer software cartridge: <ul style="list-style-type: none"> a) Which is inserted into a vote-counting unit; b) Into which is pre-programmed the names of all the candidates for each of the offices to be filled, and the alternatives of “yes” and “no” for each question on the ballot; and c) Which records and retains information on the number of acceptable marks made for each;
POLITICAL SIGN	means a sign used to promote: <ul style="list-style-type: none"> a) The election of a person or political party, or b) A position in assent voting or a plebiscite;
PORTABLE BALLOT BOX	means a ballot box, for use in the election, where a vote-counting unit is not being used at the time of voting;
REGISTER OF MAIL BALLOTS	means the records that the Chief Election Officer must keep in order to address any challenges to an elector’s right to vote;

RESULTS TAPE	means a printed record which: a) Is generated from a vote-counting unit at the close of voting on general voting day, b) Shows the number of votes for each candidate for each of the offices to be filled, and c) Shows the number of votes for and against each matter on which the opinion or assent of the electors is sought;
RETURNED BALLOT	means a voted ballot which was inserted into the vote-counting unit, but which was not accepted by the unit;
SECRECY SLEEVE	means an open-ended folder or envelope used to cover a voted ballot to conceal the choices made by an elector;
VOTE-COUNTING UNIT	means a device: a) Into which voted ballots are inserted, b) Which reads each ballot, c) Which records the number of votes for each candidate, and d) Which records the number of votes for and against each question on which the opinion or assent of the electors is sought.

3. Definitions contained in Part 3 – Electors and Elections or Part 4 – Assent Voting of the *Local Government Act* apply to this Bylaw.
4. This Bylaw applies to all City elections and assent voting opportunities held under Part 3 – Electors and Election or Part 4 – Assent Voting of the *Local Government Act*.
5. Where this Bylaw refers to an election, the provision also applies to assent voting, as applicable.
6. Any enactment referred to herein is a reference to an enactment of British Columbia and the regulations thereto, as amended, consolidated or replaced from time to time.

List of Electors

7. The list of electors (voters list) for elections and assent voting is comprised of the register of resident electors and the register of non-resident electors.
8. The most current available Provincial list of electors prepared under the *Election Act* shall become the register of resident electors on the 60th day prior to general voting day.
9. The Corporate Officer must maintain a register of non-resident property electors, which is a register of those persons who have registered as non-resident property electors for the City under the *Local Government Act*.

Names on the Ballot

10. The order of names of candidates on the ballot is determined by lot in accordance with the procedure established in the *Local Government Act*.
11. Candidates are permitted to list their usual name on the ballot in two languages if both versions are their usual name.

Public Access to Election Documents

12. In addition to public access to election documents required under the *Local Government Act*, nomination documents may be published on the City of Courtenay website from the time of receipt by the Chief Election Officer until 30 days after the declaration of the official election results.

Automated Vote-Counting System and Voting Procedures

13. An automated vote-counting system may be used to conduct elections and assent voting.
14. An election official may, and if requested by the elector, must explain to an elector the proper method for voting.
15. Upon entering a voting place, the elector must proceed as instructed to an election official, who, upon fulfilment of the requirements of the *Local Government Act*, will then provide to the elector:
 - a) A ballot;
 - b) A secrecy sleeve, if requested;
 - c) A ballot-making instrument, or direction as to where a ballot-making instrument may be found; and
 - d) Any further voting-related instructions required or requested by the elector.
16. Upon receiving a ballot, the elector must immediately proceed to a voting compartment to mark their ballot.
17. The elector may vote only by making an acceptable mark on the ballot:
 - a) Beside the name of each candidate of choice, up to the maximum number of candidates to be elected for each of the offices to be filled; and
 - b) Beside "yes" or "no" in the case of each bylaw or other matter on which the assent or opinion of the electors is sought.
18. Once the elector has finished marking the ballot, they must immediately:
 - a) Either place the ballot into the secrecy sleeve, or turn the ballot upside down;
 - b) Proceed to the vote-counting unit; and

- c) Under the supervision of the election official in attendance, insert the ballot directly from the secrecy sleeve, if applicable, into the vote-counting unit without the acceptable marks on the ballot being exposed, and without depositing the secrecy sleeve into the vote-counting unit or ballot box.
19. If a ballot is returned by the vote-counting unit, the election official in attendance must provide the elector an explanation of the ballot-marking error which caused the ballot to not be accepted.
20. If, before inserting the ballot into the vote-counting unit, an elector determines that a mistake has been made when marking the ballot, or if the ballot is returned by the vote-counting unit, the elector may return to the voting compartment to correct the ballot, or request a replacement ballot from the election official in attendance.
21. Upon being informed of the replacement ballot request, an election official shall:
 - a) Issue a replacement ballot to the elector,
 - b) Mark the returned ballot "spoiled", and
 - c) Retain all such spoiled ballots separately from all other ballots.
22. If the elector declines the opportunity to obtain a replacement ballot and has not damaged the ballot to the extent that it cannot be reinserted into the vote-counting unit, the election official shall, using the ballot return override procedure, reinsert the returned ballot into the vote-counting unit to count any acceptable marks.
23. Any ballot counted by the vote-counting unit is valid, and any acceptable marks contained on such ballots will be counted, subject to any determination made under a judicial recount.
24. Once the ballot has been inserted into the vote counting unit and the unit indicates that the ballot has been accepted, the elector must immediately leave the voting place.
25. During any period that a vote-counting unit is not functioning, the election official supervising the unit must direct electors to insert all ballots completed during this time into a portable ballot box.
26. Any ballots temporarily stored in a portable ballot box under section 25 of this Bylaw must, as soon as reasonably possible, be removed by an election official, and under the supervision of the presiding election official, be inserted into a vote-counting unit to be counted if the vote-counting unit becomes operational or is replaced with another vote-counting unit.
27. Any ballots temporarily stored in a portable ballot box, which are returned by the vote-counting unit when inserted must, through the use of the ballot return override procedure and under the supervision of the presiding election official, be reinserted into the vote-counting unit to ensure that any acceptable marks are counted.

Advance Voting Opportunities

28. An automated vote-counting system may be used at all advance voting opportunities and voting procedures at the advance voting opportunities must follow, as closely as possible, the procedures described in sections 14-27 of this Bylaw.
29. Advance voting opportunities will be held from 8 am to 8 pm on:
 - a) The 10th day before general voting day, as required by the *Local Government Act*; and
 - b) The 3rd day before general voting day.
30. The Chief Election Officer is authorized to:
 - a) Establish additional advance voting opportunities in advance of general voting day; and
 - b) Designate the voting places, set the dates and set the voting hours for any additional advance voting opportunities established under this section.
31. At the close of voting at each advance voting opportunity, the presiding election official in each case must:
 - a) Ensure that any remaining ballots in an advance voting portable ballot box are inserted into the vote-counting unit designated for the advance voting opportunity;
 - b) Ensure that no additional ballots are inserted into the vote-counting unit;
 - c) Record the total number of ballots accepted by the vote-counting unit;
 - d) Ensure that the results tape is not generated;
 - e) Ensure that the memory card of the vote-counting unit remains secured;
 - f) Account for, package separately, and label the unused and spoiled ballots;
 - g) Complete the ballot account and place the duplicate copy in the ballot box;
 - h) Securely seal the ballot box;
 - i) Place the voting books, lists of electors, original copy of the ballot account, unused ballots, spoiled ballots, completed registration forms, keys and all completed forms into the election materials box;
 - j) Deliver the sealed ballot box, vote-counting unit together with the election card, election materials box and all other materials used in the election to the Chief Election Officer at election headquarters; and
 - k) Deliver any mail ballot return envelopes to the Chief Election Officer.

Mail Ballot Voting

32. Voting may be done by mail ballot and registration may be done by mail in conjunction with mail ballot voting.

33. An automated vote-counting system may be used to count mail ballots.
34. The Chief Election Officer may establish the time limits in relation to voting by mail, but is not authorized to vary the time limits set by this Bylaw.

Mail Ballot Application Procedure

35. An applicant may apply for a mail ballot by giving their name and address to the Chief Election Officer:
 - a) Using the mail ballot application form provided,
 - b) Commencing at the start of the nomination period; and
 - c) Ending at 6:00 pm on general voting day.
36. Upon receipt of a mail ballot application form, the Chief Election Officer shall, as soon as possible, and between the time when the ballots are ready and 7:00 pm on general voting day:
 - a) Make available to the applicant, a mail ballot package which contains:
 - i. The items and content required by the *Local Government Act*,
 - ii. Any additional instructions, and
 - iii. An attestation, to be completed by the elector, that they meet the eligibility requirements to vote; and
 - b) Record in the register of mail ballots, and upon request, make available for inspection:
 - i. The name and address of the elector to whom the mail ballot package was issued;
 - ii. The number of the elector, or "new elector" if that person is not registered as an elector; and
 - iii. Any other information that the Chief Election Officer deems helpful to maintain the register of mail ballots.
37. Per the applicant's direction, the Chief Election Officer may distribute the mail ballot package in any of the following ways:
 - a) Sending the mail ballot package by Canada Post,
 - b) Sending the mail ballot package by courier at the expense of the applicant,
 - c) Having the mail ballot package picked up by the applicant at a designated time and location, or
 - d) Having the mail ballot package picked up by an authorized person at a designated time and location.
38. The Chief Election Officer may require that the authorized person provide identification and sign a form before providing the authorized person with the mail ballot package.

Mail Ballot Voting Procedure

39. To vote by mail ballot, the elector must mark the ballot in accordance with the instructions contained in the mail ballot package provided by the Chief Election Officer.
40. After marking the ballot, the elector shall:
 - a) Place the ballot in the secrecy envelope provided and seal the secrecy envelope;
 - b) Place the secrecy envelope in the certification envelope, complete and sign the certification printed on the envelope, and seal the certification envelope;
 - c) Place the certification envelope, together with a completed elector registration application, if required, in the outer envelope, and then seal the outer envelope; and
 - d) Mail, or have delivered, the outer envelope and its contents to the Chief Election Officer at the address specified so that it is received by the Chief Election Officer or a Presiding Election Official no later than the close of voting on general voting day.
41. If an elector unintentionally spoils a mail ballot, the elector may request a replacement by:
 - a) Advising the Chief Election Officer of the ballot spoilage, and
 - b) Mailing or otherwise delivering the spoiled ballot package in its entirety to the Chief Election Officer.

Ballot Acceptance or Rejection

42. The Chief Election Officer must, upon receipt of the return envelope and its contents:
 - a) Immediately record the date of receipt in the register of mail ballots, and
 - b) Open the return envelope.
43. When the Chief Election Officer examines the certification envelope, they shall:
 - a) Confirm the identity of the elector as an applicant on the register of mail ballots,
 - b) Determine the completeness of any application to register as an elector, and
 - c) Determine the completeness of the certification envelope.
44. If the Chief Election Officer is satisfied that the elector has met the requirements in section 43, the Chief Election Officer shall:
 - a) Mark the certification envelope as "accepted",
 - b) Place the accepted certification envelope in a secure location with the other certification envelopes.
45. If the Chief Election Officer is not satisfied as to the identity of the elector or the elector has not completed the certification envelope or application to register properly, the Chief Election Officer shall mark the certification envelope as "rejected", indicate the reason for the rejection and set aside the rejected certification envelope.

46. The Chief Election Officer must retain in their custody all opened and unopened certification envelopes.
47. After 2 pm on the second day before general voting day, the Chief Election Officer, in the presence of at least one other person, including any candidate representatives, must:
 - a) Deal with any challenges to the electors involving the accepted certification envelopes;
 - b) Open the certification envelopes;
 - c) Remove the secrecy envelopes containing the ballots; and
 - d) Place the secrecy envelope containing the ballot in the ballot box (for a manual count) or open the secrecy envelope and insert the ballot through the vote-counting unit.
48. If the Chief Election Officer receives a return envelope with its contents after 2pm on the second day before general voting day but before the close of voting on general voting day, the Chief Election Officer must:
 - a) Process the return envelopes in accordance with sections 42-45;
 - b) Retain all accepted certification envelopes until the close of voting on general voting day;
 - c) Process the accepted certification envelopes and the ballots therein in accordance with section 47 after the close of voting on general voting day.
49. If the Chief Election Officer receives a return envelope with its contents after the close of voting on general voting day, they must:
 - a) Mark the return envelope as "rejected",
 - b) Indicate the reason why the return envelope was rejected on the return envelope, and
 - c) Place the unopened return envelope with the other rejected return envelopes.

Procedures After Close of Voting on General Voting Day

50. After the close of voting on general voting day, each presiding election official at a general voting place must undertake all of the following, in the presence of at least one other person and any candidate representatives, generally in the order stipulated and as soon as possible:
 - a) Ensure that any remaining ballots in a portable ballot box are inserted into the vote-counting unit;
 - b) Secure the vote-counting unit so that no more ballots can be inserted;
 - c) Generate three copies of the results tape from the vote-counting unit;
 - d) Communicate the results to the Chief Election Officer immediately;

- e) Account for the unused and spoiled ballots and place them, packaged and sealed separately, together with the memory card from the vote-counting unit and one copy of the results tape, into the ballots and results box;
 - f) Complete the ballot account and place the duplicate copy in the ballots and results box;
 - g) Seal the ballots and results box;
 - h) Place the voting books, lists of electors, the original copy of the ballot account, one copy of the results tape, keys and all completed forms into the election materials box;
 - i) As directed by the Chief Election Officer, deliver, or have available for pick-up, the sealed ballots and results box, vote-counting unit, and the election materials box to the Chief Election Officer at election headquarters; and
 - j) Deliver any mail ballot return envelopes to the Chief Election Officer.
51. After the close of voting on general voting day, the Chief Election Officer must direct or undertake the following, in the presence of at least one other person and any candidate representatives, generally in the order stipulated and as soon as possible:
- a) Receive any additional mail ballot return envelopes from the presiding election officials,
 - b) Process any remaining mail ballots in accordance with section 48,
 - c) Ensure that any remaining voted ballots in a portable ballot box are inserted into a vote-counting unit to be counted,
 - d) Reconcile the newly counted ballots with the ballot accounts,
 - e) Secure the vote-counting unit so that no more ballots can be inserted,
 - f) Generate three copies of the results tape from all vote-counting units at election headquarters which were used in the election,
 - g) Place the memory cards and one copy of each results tape into the ballot box, and
 - h) Securely seal any unsealed ballot boxes which contain voted ballots.

Recount Procedures

52. Any recount after the preliminary election results are announced must be conducted under the direction of the Chief Election Officer using the automated vote-counting system and generally in accordance with the following procedure:
- a) The memory cards of the applicable vote-counting units are cleared;
 - b) A vote-counting unit is designated for each voting place;
 - c) All voted ballots are removed from the sealed election materials boxes, except spoiled ballots, and reinserted in the vote-counting unit under the supervision of the Chief Election Officer;

- d) Any ballots returned by the vote-counting unit during the recount process must be, through the use of the ballot return override procedure, reinserted in the vote-counting unit to ensure that any acceptable marks are counted.

Determination of Results if Tie Vote

53. If, at the completion of a judicial recount, the results of the election cannot be declared because there are equal valid votes for two or more candidates, the results must be determined by lot in accordance with the procedure established in the *Local Government Act*.

Political Signs

54. Sections 55-59 of this Bylaw apply to all political signs within the City.
55. Political signs related to a municipal or school election or by-election or a municipal referendum or assent vote may be posted no earlier than 45 days before general voting day.
56. Political signs related to a federal or provincial election, by-election, referendum, or plebiscite may be posted no earlier than the day on which the election writ is issued.
57. Political signs must be removed within 48 hours after the close of voting for the election, by-election or other voting to which they pertain.
58. Political signs must not be:
 - a) Located within 2 metres of a fire hydrant;
 - b) Permitted to become dilapidated or unsightly;
 - c) Permitted to interfere with the safety of vehicles, cyclists or pedestrians;
 - d) Permitted to obstruct or distract from a traffic control device or traffic sign.
59. The Chief Election Officer is authorized to remove, delegate the removal or require the removal of political signs which are in contravention of this Bylaw.

Oath of Office

60. The following Oath of Office is established for the office of Mayor and the office of Councillor:

I (*name of person elected or appointed*), do solemnly affirm that:

I am qualified to hold the office of (*Mayor/Councillor*) for the City of Courtenay to which I have been elected;

I have followed the Local Government Act and all other applicable legislation in relation to my election to the office;

I will faithfully perform the duties of my office for the betterment of my community, and

My conduct in public affairs will be lawful and of the highest integrity.

Severability

61. If any portion of this Bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of the Bylaw is deemed valid.

Repeal

62. The "Election Procedures and Automated Voting Bylaw No. 2545, 2008" is hereby repealed.

READ A FIRST TIME THIS 30TH DAY OF MAY, 2022.

READ A SECOND TIME THIS 30TH DAY OF MAY, 2022.

READ A THIRD TIME THIS 30TH DAY OF MAY, 2022.

ADOPTED THIS 13TH DAY OF JUNE, 2022.



MAYOR BOB WELLS



DEPUTY CORPORATE OFFICER ADRIANA PROTON