

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2545

A bylaw to provide for automated voting and the determination of various procedures for the conduct of local government elections and other voting

WHEREAS under the *Local Government Act*, Council may, by bylaw determine various procedures and requirements to be applied to the conduct of local government elections and other voting;

AND WHEREAS under the *Local Government Act*, Council may, by bylaw, provide for the use of automated voting machines, voting recorders or other devices for voting in an election;

AND WHEREAS the Council of the Corporation of the City of Courtenay wishes to establish various procedures and requirements under that authority;

NOW THEREFORE the Council of the Corporation of the City of Courtenay, in open meeting of Council, enacts as follows:

DEFINITIONS

1. In this bylaw all definitions shall be in accordance with the *Local Government Act*, except for the following:

Acceptable Mark means a completed mark which the vote tabulating unit is able to identify, which has been made by an elector in the space provided on the ballot opposite the name of any candidate or opposite either a yes or a no on any other voting question.

Automated Vote Counting System means a system that counts and records votes and processes and stores election results which comprises:

- (a) a number of ballot scan vote counting units, each of which rests on a two compartment ballot box, one compartment of which is for:

- (i) voted ballots, and

- (ii) returned ballots that have been reinserted using the ballot over-ride procedure

and the other for the temporary storing of voted ballots during such time as the vote counting unit is not functional; and

- (b) a number of portable ballot boxes into which voted ballots are deposited, where a vote counting unit is not being used, for counting after the close of voting on general voting day.

Ballot means a single automated ballot card designed for use in an automated voting system which shows:

- (a) the names of all of the candidates for each of the offices of Mayor, Councillor, and, if applicable, School Trustee, and
- (b) all of the choices on all of the questions on which the opinion or assent of the electors is sought.

Ballot Return Over-Ride 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.

Election means an election for the number of persons required to fill a local government office;

Election Headquarters means the Florence Filberg Centre, 411 Anderton Avenue, Courtenay, B.C.

Emergency Ballot Compartment means a designated compartment in the ballot box under each vote counting unit into which voted ballots are temporarily deposited in the event that the unit ceases to function.

General Local Election means the elections held for each of the offices of Mayor, Councillors and, if applicable, School Trustee.

General Voting Day means

- (a) for a general local election, the 3rd Saturday of November in the year of the election;
- (b) for other elections, the date set under sections 37 (5), 38 (1), or (3) or 142 (5) of the *Local Government Act*; and
- (c) for other voting, the date set under section 162 of the *Local Government Act*.

Memory Pack means a computer software cartridge, which is inserted into the vote counting unit, and into which is pre-programmed:

- (a) the names of all of the candidates for each of the offices of Mayor, Councillor and, if applicable, School Trustee;
- (b) the alternatives of yes or a no for each question;

and a mechanism to record and retain information on the number of acceptable marks made for each.

Portable Ballot Box means a ballot box which is used in the election where a vote counting unit is not being used at the time of voting.

Results Tape means the printed record generated from a vote counting unit at the close of voting on general voting day which shows the number of votes for each candidate for each of the offices of Mayor, Councillor and, if applicable, School Trustee, and the number of votes for and against each question.

Returned Ballot means a voted ballot which was inserted into the vote counting unit by the elector but was not accepted and was returned to the elector with an explanation of the ballot marking error which caused the ballot not to be accepted.

Secrecy Sleeve means an open-ended folder or envelope used to cover ballots to conceal the choices made by each elector.

Vote Counting Unit means the device into which voted ballots are inserted and which scans each ballot and counts and records the number of votes for each candidate; and for and against each question.

AUTHORIZATION

2. Authorization is hereby given for the conduct of the General Local and School Board Trustee Election through use of an automated vote counting system.

USE PROVINCIAL VOTERS LIST AS REGISTER OF RESIDENT ELECTORS

3. (a) As authorized under section 61 of the *Local Government Act*, the most current list of voters prepared under the Election Act existing at the time an election or other voting is to be held, is deemed to be the register of resident electors for the municipality;
- (b) The Provincial list of voters shall become the register of resident electors no later than 52 days before general voting day for any election to which the bylaw applies.

ADVANCE VOTING

4. (a) At least two advance voting opportunities must be held for an election by voting:
 - (i) one on the 10th day before general voting day;
 - (ii) the other on the 3rd day before general voting day.
- (b) Voting hours for the required advance voting opportunities shall be from 8:00 a.m. to 8:00 p.m.
- (c) As soon as reasonably possible after the declaration of an election by voting, the chief election officer must designate voting places for the required advance voting opportunities.
- (d) At least six but not more than thirty days before a required advance voting opportunity, the chief election officer must give notice in accordance with Section 44 of the *Local Government Act* of

- (i) the date, location of the voting places and the voting hours for the voting opportunity.
- (ii) the documents that will be required in order for a person to register as an elector at the time of voting, and
- (iii) the place where persons may apply on an advance voting day for non-resident property elector certificates required in order to register at the time of voting.

ADDITIONAL ADVANCE VOTING OPPORTUNITIES

5. As authorized under section 98 of the *Local Government Act*, Council authorizes the chief election officer to establish additional advance voting opportunities for each election to be held in advance of general voting day and to designate the voting places, establish the date and the voting hours for these voting opportunities.

ADVANCE VOTING OPPORTUNITY PROCEDURES

6. (a) The vote counting units and regular ballot boxes will be used to conduct advance voting opportunities unless the chief election officer directs that portable boxes be used.
- (b) At the close of each advance voting opportunity the Presiding Election Official must ensure that:
- (i) no additional ballots are inserted in the vote counting units;
 - (ii) the ballot boxes used are sealed to prevent insertion of additional ballots;
 - (iii) the register tapes for the advance voting opportunity are not generated; and the automated vote counting system, including sealed memory cards, is delivered to the chief election officer for securing until general voting day.

SPECIAL VOTING OPPORTUNITIES AND PROCEDURES

7. (a) Pursuant to Section 99 of the *Local Government Act*, the Chief Election Officer is hereby authorized to establish special voting opportunities in order to give electors who may otherwise be unable to vote, an opportunity to do so.
- (b) Special voting opportunities will be restricted to only residents and employees of the location where the special voting opportunity has been established by the Chief Election Officer.
- (c) A presiding election official may attend at pre-approved facilities to take the elector's vote.
- (d) The following procedures for voting and for conducting the voting proceeding apply to the special voting opportunity:

- (i) Bedside voting will be permitted when required.
- (e) Portable ballot boxes will be used by the presiding election officials in which the ballots containing the votes at the pre-approved special opportunity voting places will be placed.
- (f) The presiding election officials appointed to attend at the pre-appointed special opportunity voting places shall conduct the voting in accordance with the following and as close as possible to the procedures outlined in Part 9 of this Bylaw as applicable:
 - (i) explain and demonstrate the voting procedures;
 - (ii) fill out the voting book;
 - (iii) provide a ballot to the elector, along with a secrecy sleeve, and any further instructions the elector requests;
 - (iv) allow the elector to mark the ballot in private and place it into the secrecy sleeve; and
 - (v) ensure that the ballot moves directly from the secrecy sleeve into the portable ballot box.
- (g) The presiding election official will ensure that the portable ballot box is secured. As soon as the presiding election official has attended all institutions as directed by the chief election officer, the presiding election official must seal the portable ballot box and return it to the chief election officer for safe keeping until general voting day.

AUTOMATED VOTING PROCEDURES

- 8. The presiding election official for the voting place and at each advance voting opportunity shall offer, and if requested, ensure that a demonstration of how to vote using an automated vote counting system is provided to an elector as soon as such elector enters the voting place and before a ballot is issued.
- 9. Upon completion of any voting demonstration, if any, the elector shall proceed as instructed to the election official responsible for issuing ballots who:
 - (a) shall ensure that the elector
 - (i) is qualified to vote in the election;
 - (ii) completes the voting book as required in the *Local Government Act*;
 - (b) upon fulfillment of the requirements of subsection (a) shall then provide a ballot to the elector, along with a secrecy sleeve if requested by the elector, the ballot-marking pen if applicable, and any further instructions the elector requests.

- (c) The elector may vote only by making an acceptable mark on the ballot:
 - (i) beside the name of each candidate of choice up to a maximum number of candidates to be elected for each of the offices of Mayor, Councillor and, if applicable, School Trustee, and;
 - (ii) beside either “yes” or “no” in the case of each question.
- (d) Once the elector has finished marking the ballot the elector must either:
 - (i) place the ballot into the secrecy sleeve in the case of a two sided ballot, or
 - (ii) turn the ballot upside down in the case of a single sided ballot; and proceed to the vote counting unit and under the supervision of the election official in attendance insert the ballot directly into the vote counting unit without the acceptable marks on the ballot being exposed.
- (e) If, before inserting the ballot into the vote counting unit, an elector determines that a mistake has been made when marking the ballot or the ballot is inserted into the vote counting unit and returned, the elector may request a replacement ballot by advising the election official in attendance.
- (f) Upon being advised of the replacement ballot request the Presiding Election Official shall issue a replacement ballot to the elector and mark the returned ballot “spoiled” and shall retain all such spoiled ballots separately from all other ballots and they shall not be counted in the election.
- (g) 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 over-ride procedure, reinsert the returned ballot into the vote counting unit to count any acceptable marks.
- (h) Any ballot accepted by the vote counting unit is valid and any acceptable marks contained on such ballots will be counted in the election subject to any determination made under a judicial recount.
- (i) 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.
- (j) During any period that a vote counting unit is not functioning, the election official supervising the unit shall direct electors to insert their ballots into the emergency ballot compartment on the understanding that if the vote counting unit
 - (i) becomes operational; or
 - (ii) is replaced with another vote counting unit;

the ballots in the emergency ballot compartment shall as soon as reasonably possible be removed by an election official and, under the supervision of the Presiding Election Official shall be inserted into the vote counting unit to be counted.

- (k) Any ballots which were temporarily stored in the emergency ballot compartment during a period when the vote counting unit was not functioning which are returned by the vote counting unit when being counted, shall, through the use of a ballot return over-ride 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.

PROCEDURES AFTER THE CLOSE OF VOTING ON GENERAL VOTING DAY

10. After the close of voting on general voting day the Chief Election Officer shall undertake all of the following generally in the order stipulated:

- (a) ensure that any remaining ballots in the emergency ballot compartment are inserted into the vote counting unit;
- (b) secure the vote counting unit so that no more ballots can be inserted;
- (c) generate two (2) copies of the results tape from the vote counting unit;
- (d) remove the memory from the vote counting unit;
- (e) account for the unused, spoiled and voted ballots and place them, packaged and sealed separately into the election materials box.
- (f) complete the ballot account and place the duplicate copy in the election materials box.
- (g) seal the elections material box.
- (h) place the voting books, the original copy of the ballot account, one (1) copy of the results tape and all completed administrative forms into the Chief Election Officer portfolio.
- (i) proceed with the advance voting opportunities ballots by opening all portable ballot boxes and following the procedures in accordance with (c) to (h) inclusive of this Section, so far as applicable.

11. At the close of voting on general voting day the chief election officer shall direct the presiding election official for the advance voting opportunities and any special voting opportunities where vote counting units were used, to proceed in accordance with Section 10 of this bylaw.

12. At the close of voting on general voting day all portable ballot boxes used in the election will

be opened under the direction of the chief election officer and all ballots shall be removed and inserted into a vote counting unit to be counted, after which the provisions of section 10, so far as applicable, shall apply.

PUBLIC ACCESS TO ELECTION DOCUMENTS

- 13.** In addition to public access to election documents required under the *Local Government Act* Council authorizes the publication of the following electronically via the Internet:
- (a) nomination documents under section 73 of the *Local Government Act* from as soon as practicable after the time of delivery to the chief election officer until 30 days after the declaration of the official election results; and
 - (b) disclosure statements and signed declarations under section 90 of the *Local Government Act* and the supplementary reports and signed declarations un section 90.1 of the *Local Government Act* from as soon as practicable after filing with the Chief Election Officer to six months after general voting day for the election to which they relate.

RECOUNT PROCEDURE

- 14.** If a recount is required it shall 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 packs of all vote counting units will be cleared;
 - (b) vote counting units will be designated for the recount voting place;
 - (c) all voted ballots will be removed from the sealed election materials boxes except spoiled ballots, and reinserted in the appropriate vote counting units under the supervision of the Chief Election Officer;
 - (d) any ballots returned by the vote counting unit during the recount process shall, through the use of the ballot return over-ride procedure, be reinserted into the vote counting unit to ensure that any acceptable marks are counted.

RESOLUTION OF TIE VOTES AFTER JUDICIAL RECOUNT

- 15.** In the event of a tie vote after a judicial recount, the tie vote will be resolved by conducting a lot in accordance with section 141 of the *Local Government Act*.

ORDER OF NAMES ON BALLOT

- 16.** The order of names of candidates on the ballot will be determined by lot in accordance with section 107 of the *Local Government Act*.

NUMBER OF SCRUTINEERS AT VOTING PLACES

17. As authorized under Section 110 (2) (d) of the *Local Government Act*, the number of scrutineers for each candidate that may attend at an election is a maximum of one scrutineer for each automated vote counting system in use.
18. The number of candidates representatives who may be present at the special voting opportunity is limited to one, with the candidate representative chosen by agreement of the candidates for that election or, failing such agreement, by the chief election officer.

OATH OF OFFICE

19. The following oath of office is established for the purposes of section 120 (2) of the *Community Charter* for the office of Mayor and the office of Councillor:

Oath of Office

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

- I am qualified to hold the office of Councillor or Mayor for the City of Courtenay to which I have been elected;
- I have followed the *Local Government Act* 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.

GENERAL PROVISIONS

20. Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time.
21. If any part, section, sentence, clause, phrase or word of this bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder which shall continue in full force and effect and be construed as if the bylaw had been adopted without the invalid portion.

REPEAL PREVIOUS BYLAWS

22. "Election Procedures and Automated Voting Bylaw No. 2415, 2005" and amendments thereto are hereby repealed.

CITATION

23. This bylaw may be cited for all purposes as “Election Procedures and Automated Voting Bylaw No. 2545, 2008”.

Read a first time this 16th day of June, 2008

Read a second time this 16th day of June, 2008

Read a third time this 16th day of June, 2008

Finally passed and adopted this 7th day of July, 2008

Mayor

Manager of Corporate Administration